149 US 242

RECORD, CASE NO. 13842.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1892.

TERM NO., 232.

JOHN S. HAGER, COLLECTOR OF CUSTOMS FOR THE PORT AND DISTRICT OF SAN FRANCISCO, PLAINTIFF IN ERROR,

vs.

R. H. SWAYNE.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

FILED OCTOBER 21, 1889.

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1 In the circuit court of the United States, ninth circuit, northern district of California.

Petition.—Petition for removal.

To the judges of the circuit court of the United States, ninth circuit, northern district of California:

Your petitioner, John S. Hager, respectfully shows as follows:

That at all the times herein mentioned he was, and now is, the duly appointed, qualified, and acting collector of customs of the port and collection district of San Francisco, and as such, is acting under and by authority of the revenue laws of the United States.

That under and by virtue of the powers vested in him as such collector, and in pursuance of paragraph 15 of Schedule K, wools and woolens, of an act of Congress of the United States, entitled "An act to reduce
2 internal-revenue taxation, and for other purposes," approved March 3rd, 1883, and in pursuance of the classification made by the United States appraiser at said port levied, assessed, and collected 40 cents per pound, and in addition thereto 35 per cent advalorem, upon the following importations into said port, made by the following-named persons at the several dates hereinafter stated in connection therewith, to wit, on two cases of silk shoes imported by Sang Lung & Co. on the 28th of June, 1886; on one case of silk shoes imported by Sang Lung & Co. on the 28th day of July, 1886; on five cases of cotton shoes imported by San Lung & Co. on the 9th day of August, 1886; on two case of cotton shoes imported by Sang Lung & Co. on the 21st day of August, 1886; on one case of cotton shoes imported by Sang Lung & Co. on the 9th day of September, 1886; on two cases of silk shoes imported by Sang Lung & Co. on the 9th day of September, 1886; on one case of cotton shoes imported by Sang Lung & Co. on the 16th day of September, 1886; on two
3 cases of silk shoes imported by Sang Lung & Co. on the 16th day of September, 1886; on one case of silk shoes imported by Kwong Nee Lung & Co. on the 19th day of July, 1886; on one case of cotton shoes imported by Kwong Nee Lung & Co. on the 19th day of July, 1886; on six cases of cases of cotton shoes imported by Kwong Nee Lung & Co. on the 21st day of August, 1886; on two cases of silk shoes imported by Kwong Nee Lung & Co. on the 9th day of September, 1886; on one case of cotton shoes imported by Kwong Nee Lung & Co. on the 9th day of September, 1886; on four cases of silk shoes imported by Kwong Nee Lung & Co. on the 16th day of September, 1886; on two cases of cotton shoes imported by Kwong Nee Lung & Co. on the 16th day of September, 1886; on three cases of cotton shoes imported by Sung Wo Tai & Co. on the 21st day of August, 1886; on six case of cotton shoes imported by Nam Sang on the 6th day of August, 1886; on one case of silk shoes imported by Nam Sang on the 6th day of August, 1886; on two
4 cases of cotton shoes imported by Kwong Chong Shing on the 9th day of August, 1886; on four cases of cotton shoes imported by Kwong Chong Shing on the 28th day of July, 1886; on one case of cotton shoes imported by Kwong Hang On on the 19th day of July, 1886; on one case of cotton shoes imported by Kwong Hang On on the 9th day of August, 1886; on six cases of cotton shoes imported by Kwong Hang On on the 9th day of September, 1886; on three cases of cotton shoes

imported by Chong Tai & Co. on the 31st day of July, 1886; on four cases of cotton shoes imported by Wing Chong Wo & Co. on the 31st day of July, 1886; on two cases containing 120 pairs of cotton shoes imported by Kwong Chew Yuen on the 7th day of October, 1886; on one case of silk shoes imported by Kwong Chew Yuen & Co. on the 7th day of October, 1886; on two cases of cotton shoes imported by Chu Ying Lung & Co. on the 9th day of August, 1886; on two cases of silk shoes imported by Chu Ying Lung & Co. on the 9th day of August, 1886; on four cases of cotton shoes imported by Wong On Lung on the 9th
5 day of August, 1886; on two cases of silk shoes imported by Wong On Lung on the 9th day of August, 1886; on two cases of cotton shoes imported by Lun Sing & Co. on the 28th day of July, 1886; on two cases of cotton shoes imported by Kwong Mee Lung & Co. on the 21st day of September, 1886; on eight cases of cotton shoes imported by Hip Tuck Jan & Co. on the 28th day of June, 1886; on six cases of silk shoes imported by Hip Tuck Jan & Co. on the 28th day of June, 1886; on two cases of cotton shoes imported by Lun Tye & Co. on the 28th day of July, 1886; on one case of silk shoes imported by Lun Tye & Co. on the 9th day of August, 1886; on one case of cotton shoes imported by Lun Tye & Co. on the 9th day of August, 1886; on two cases of silk shoes imported by Lun Tye & Co. on the 21st day of August, 1886; on one case of silk shoes imported by Lun Tye & Co. on the 21st day of August, 1886; on two cases of silk shoes imported by Lun Tye & Co. on the 9th day of December, 1886; on four cases of cotton shoes im-
6 ported by Lun Tye & Co. on the 9th day of December, 1886; on sixteen cases of cotton shoes imported by Nam Sang on the 28th day of July, 1886; on two cases of silk shoes imported by Kwong Fong Woo & Co. on the 29th day of September, 1886; on one case of silk shoes imported by Wing Hing Lung on the 16th day of September, 1886; on one case of silk shoes imported by Wing Hing Lung on the 7th day of October, 1886; on one case of cotton shoes imported by Wing Hing Lung on the 7th day of October, 1886.

That the said several importers claiming that the duties levied, assessed, and collected as aforesaid on the several importations hereinbefore named was in excess of the sum or rate lawfully chargeable as duties on said merchandise, claiming a right of rebate therefor against your petitioner, assigned and transferred said claim to one R. H. Swayne.

That after said assignment, to wit, on the 8th day of October, 1887, the said R. H. Swayne commenced an action in the superior court in and
7 for the city and county of San Francisco, State of California, against your petitioner, wherein the said R. H. Swayne is plaintiff and your petitioner, John S. Hager, as collector of the port and collection district of San Francisco, is defendant, to recover the sum of $3,799.56, claimed to be the total amount exacted by your petitioner as collector aforesaid and required by him to be paid above and in excess of the sum lawfully chargeable as duties on said several importations of merchandise.

That the said duties levied, assessed, and collected by your petitioner on the aforesaid several importations of merchandise was done under and by color of his office as collector of the port and collection district of San Francisco and under and in pursuance of the instructions of the Secretary of the Treasury and under and in pursuance of said paragraph 15 of schedule K of said act of March 3rd, 1883, and not otherwise.

That the object of said suit is to determine whether or not the
8 said silk and cotton shoes so imported by the several importers hereinbefore named should be classified for the purpose of duties under the provisions of paragraph 15 of schedule K of said act of March 3rd, 1883, which provides that wearing apparel of every description not specially enumerated or provided for in said act, composed wholly or in part of the hair of the alpaca, goat, or other animals, at the rate of 40 cents per pound, and in addition thereto 35 per cent ad valorem, or whether, under the provisions of paragraph 7 of schedule I, cotton & cotton goods, and paragraph 4 of schedule L, silk and silk goods, of said act of March 3rd, 1883, said several importations should be classified for the purposes of duties as manufactures of silk and cotton not specially enumerated in said act, and duties levied, assessed, and collected thereon at the rate of 35 per cent ad valorem on the dutiable valuation of cotton manufactures and at the rate of 50 per cent ad valorem on the dutiable valuation of silk manufactures, the same claimed by plaintiff to be
9 silk and cotton manufactures not specifically enumerated in said act, silk and cotton being the component material of chief value in said importations and said rate being the highest rate assessed on said component of chief value.

That said suit was commenced in the superior court of the city and county of San Francisco, State of California, by the filing of a complaint, as hereinbefore stated, and the issuing of a summons thereon.

That your petitioner has not yet filed his answer to said complaint filed in said superior court in said cause, and the time within which he is required to answer plaintiff's complaint, under the laws of the State of California, has not yet expired and said cause is not yet at issue and has not yet been tried, but is now pending in the said superior court of the city and county of San Francisco.

Wherefore your petitioner prays that said case may be entered on the docket of the circuit court of the United States, ninth circuit,
10 northern district of California, and that the same may be proceeded with in said court as a cause originally commenced therein, and that the clerk of said circuit court shall issue a writ of certiorari to said State court, requiring it to send to said circuit court the record and proceedings in said cause and that if no copy of the records and proceedings in said State court can be obtained that said circuit court allow and require the plaintiffs to proceed de novo and file a declaration of his cause of action with the clerk of said circuit court and that thereupon said cause may proceed as in actions originally brought in said circuit court, and upon the failure of plaintiffs so to proceed judgment of non prosequitur may be rendered against him with costs for the defendant, and will ever pray.

JOHN T. CARY,
United States Attorney.

11 STATE OF CALIFORNIA,
City and County of San Francisco, ss:

John S. Hager, being duly sworn, on his oath deposes and says that he is the defendant in the foregoing entitled action and is petitioner herein; that he has read the foregoing petition, sworn to by him, and knows the

contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on his information and belief; that as to those matters that he believes it to be true.

JNO. S. HAGER.

Subscribed and sworn to before me this 19 day of October, A. D. 1887.
[SEAL.] F. D. MONCKTON,
Dpy. Clk. & Commissioner U. S. Circuit Court,
Northern District of California.

I, John T. Carey, an attorney and counselor at law of the United States circuit court, ninth circuit, northern district of California, and
12 United States attorney in and for said district, and as counsel for the petitioner in the foregoing petition, hereby certify that I have examined the proceedings against said petitioner and carefully inquired into all the matters set forth in the foregoing petition, and verily believe them to be true.

JOHN T. CAREY,
United States Attorney,
Attorney for Petitioner.

(Endorsed:) Filed October 19, 1887, L. S. B. Sawyer, clerk.

13 In the circuit court of the United States, ninth circuit, northern district of California.

UNITED STATES OF AMERICA,
Northern District of California, ss:

Writ of certiorari.

To the Superior Court in and for the City and County of San Francisco, State of California, Greeting:

Being informed that there is now pending before you a suit in which R. H. Swayne is plaintiff and John S. Hager, as collector of the port and collection district of San Francisco, is defendant, to recover the sum of $3,799.56, claimed to be the total amount exacted by said Hager as collector aforesaid and required by him to be paid above and in excess of the sum lawfully chargeable as duties on several importations of merchandise; that said suit was commenced by summons and complaint and that said suit has not been tried, and we being willing for certain rea-
14 sons that the said cause and the records and proceedings therein should be certified by said superior court and removed into our circuit court of the United States in and for the ninth circuit and northern district of California, do hereby command you that you send without delay and within ten days to the said circuit court as aforesaid the record and proceedings in said cause, so that the said circuit court may act thereon as of right, and according to law ought to be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 19th day of October, 1887.
[SEAL.] L. S. B. SAWYER, *Clerk.*

15 *Marshal's return to writ of certiorari.*

[Endorsed.]

UNITED STATES MARSHAL OFFICE,
Northern District of California:

I hereby certify that I received the annexed writ on the 20th day of October, 1887, and personally served the same on the 21st day of October 1887, by delivering to, and leaving with Wm. J. Ruddick, county clerk of the city and county of San Francisco, said defendant named therein personally, at the city and county of San Francisco, in said district, a certified copy thereof.

J. C. FRANKS,
U. S. Marshal.
By B. DONNELLY,
Deputy.

San Francisco, October, 21st, 1887.

Filed October 22d, 1887. L. S. B. Sawyer, clerk.

16 In the circuit court of the United States, ninth circuit, northern district of California.

R. H. SWAYNE,
vs.
JOHN S. HAGER. } No. 5391.

Return to writ of certiorari.

I, Wm. J. Ruddick, county clerk of the city and county of San Francisco, State of California, and ex officio clerk of the surperior court thereof, do, in obedience to the writ of certiorari hereto annexed, certify and return to the honorable the said circuit court of the United States the following, the same being a transcript of said cause of R. H. Swayne vs. John S. Hager, named in said writ, and the record and proceedings in said cause, with all the things touching the same, as fully and entirely as the same remains on record and on file in the office of the clerk of our superior court.

In witness whereof I have hereunto set my hand and affixed the
17 seal of the said superior court, this 24th day of October, A. D. 1887.

[SEAL.] WM. J. RUDDICK, *Clerk.*
By L. J. WELCH, *Deputy Clerk.*

18 In the circuit court of the United States, ninth circuit, northern district of California.

UNITED STATES OF AMERICA,
Northern District of California, ss:

To the superior court in and for the city and county of San Francisco, State of California, greeting:

Being informed that there is now pending before you a suit, in which R. H. Swayne is plaintiff and John S. Hager, as collector of the port

and collection district of California, is defendant, to recover the sum of $3,799.56 claimed to be the total amount exacted by said Hager as collector aforesaid and required by him to be paid above and in excess of the sum lawfully chargeable as duties on several importations of merchandise.

That said suit was commenced by summons and complaint, and that said suit has not been tried, and we being willing for certain rea-
19 sons that the said cause and the records and proceedings therein should be certified by said superior court and removed into our circuit court of the United States in and for the ninth circuit and northern district of California, do hereby command you that you send without delay and within ten days to the said circuit court as aforesaid, the record and proceedings in said cause, so that the said circuit court may act thereon as of right and according to law ought to be done.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 19th day of October, 1887.

[SEAL.] L. S. B. SAWYER, *Clerk.*

I, L. S. B. Sawyer, clerk of the circuit court of the United States for the northern district of California, do hereby certify the foregoing to be a full, true, and correct copy of the writ of certiorari issued this day in the cause entitled, R. H. Swayne vs. John S. Hager, collector, &c., No.
20 5391, in said circuit court.

Attest my hand and the seal of said circuit court, this 19th day of October, A. D. 1887.

[SEAL.] L. S. B. SAWYER,
Clerk.
By F. D. MONCKTON,
Deputy Clerk.

21 In the superior court of the city and county of San Francisco, State of California.

R. H. SWAYNE, PLAINTIFF,
vs.
JOHN S. HAGER, COLLECTOR OF THE PORT AND collection district of San Francisco, deft.

Complaint.

The plaintiff above-named brings this action against the defendant above named and avers:

22 I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 28th day of June, 1886, Sang Lung & Co., merchants of San Francisco, imported into the port of San Francisco, by the steamship Gallic from Hongkong, China, certain merchandise, to wit: Two cases of silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of silk, and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable was the sum of seventy-five $\frac{88}{100}$ dollars.

IV.

That on the importation of said shoes at the the port of San Francisco, as aforesaid, the said importers made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of fifty per cent ad valorem, on the dutiable valuation thereof, as manufactures of silk not specifically enumerated, silk being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said importers further requested that on payment thereof, the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said importers to pay the said duties on the said valuation at said rate, and required and exacted of the said importers the payment of duties thereon at the rate of 40 cents per pound, and 35 per cent ad valorem, to wit, the sum of $\$47^{10}$ dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law, fixing duties on wearing appea'l of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said importers said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

23 That the duties chargeable on said merchandise as manufactures of silk not specially enumerated, were and are the sum of $\$37.00$ dollars, and the sum exacted by the said defendant, collector as aforesaid, from said importers on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 89 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said importers was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other

animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector aforesaid, and required to be paid, was and is the sum of 52 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said importers the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said importers paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit: the sum of 89 dollars, *dollars* the same being then and there 52 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said importers that he would thereafter, when thereunto requested, pay to the said importers the said sum of 52 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers, that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said importers gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers, that within thirty days after the date of said ascertainment and liquidation of duties, the said importers appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date, the said Sang Lung & Co., for a valuable consideration, has sold assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 52 dollars.

That the same is now due and owing to this plaintiff.

24 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 28th day of July, 1886, Sang Lung & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship City of Peking from Hongkong, China, certain merchandise, to wit: 1 case silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit: the body thereof of silk and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the county from which they were imported, and on which duties were chargeable was the sum of $41\frac{60}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Sang Lung & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of 50 per cent ad valorem, on the dutiable valuation thereof, as manufacturers of not specifically enumerated, silk being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Sang Lung & Co. further requested that on payment thereof, the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Sang Lung & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Sang Lung & Co. the payment of duties thereon at the rate of 40 cents per pound, and 35 per cent. ad valorem, to wit, the sum of 44.70 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law, fixing duties on wearing appeal of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Sang Lung & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

That the duties chargeable on said merchandise as manufactures of silk not specially enumerated, were and are the sum of 21 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Sang Lung & Co. on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of forty-four $\frac{70}{100}$, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Sang Lung & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of $23\frac{70}{100}$ dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Sang Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Sang Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of forty-four $\frac{70}{100}$ dollars, the same being then and there $23\frac{70}{100}$ dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Sang Lung & Co. that he would thereafter, when thereunto requested, pay to the said Sang Lung & Co. the said sum of $23\frac{70}{100}$ dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse to pay the said amount or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Sang Lung & Co. gave notice to the said defendant, collector as aforesaid, in writing on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same made and delivered to the defendant collector as aforesaid a protest in writing signed by Sang Lung & Co. against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties, the said Sang Lung & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date, the said Sang Lung & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 23.70 dollars.
That the same is now due and owing to this plaintiff.

26 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 9th day of August, 1886, Sang Lung & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship San Pablo, from Hong Kong, China, certain merchandise, to wit, five cases of cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the county from which they were imported and on which duties were chargeable, was the sum of $122\frac{30}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Sang Lung & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz: at the rate of thirty-five per cent ad valorem on the dutiable valuation thereof as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Sang Lung & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Sang Lung & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Sang Lung & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent. ad valorem, to wit, the sum of $216\frac{30}{100}$ dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing appeal of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused and at all times since has refused to deliver to the said Sang Lung & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him as aforesaid.

27 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of 42.70 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Sang Lung & Co. on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of $216\frac{30}{100}$ dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Sang Lung & Co. was and is not wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 173.60 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Sang Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Sang Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 216.30 dollars, the same being then and there 173.60 dollars in excess of the duties lawfully chargeable on said merchandise; in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Sang Lung & Co. that he would thereafter, when thereunto requested, pay to the said Sang Lung & Co. the said sum of 173.60 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount or any part thereof.

VI.

The plaintiff further avers, that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Sang Lung & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by Sang Lung & Co., against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers, that within thirty days after the date of said ascertainment and liquidation of duties the said Sang Lung & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Sang Lung & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 173.60 dollars.

That the same is now due and owing to this plaintiff.

28 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 21st day of August, 1886, Sang Lung & Co., merchants of San Francisco, imported into the port of San Francisco, by the steamship City of Sydney, from Hongkong, China, certain merchandise, to wit: Two cases of cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit: The body thereof of cotton, and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the county from which they were imported, and on which duties were chargeable was the sum of $49\frac{78}{00}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Sang Lung & Co., made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz: At the rate of 35 per cent ad valorem, on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Sang Lung & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Sang Lang & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Sang Lung & Co. the payment of duties thereon at the rate of forty cents per pound, and thirty-five per cent ad valorem, to wit: the sum of $83\frac{10}{100}$ dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law, fixing duties on wearing appea'l of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted,

the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Sang Lung & Co., said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

29 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated, were and are the sum of 17.50 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Sang Lung & Co. on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca; goat or other animals, was the sum of 83.10 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Sang Lung & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 65.60 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Sang Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Sang Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit: the sum of 83.10 dollars, the same being then and there 65.60 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Sang Lung & Co. that he would thereafter, when thereunto requested, pay to the said Sang Lung & Co. the said sum of $65.60 *dollars*.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Sang Lung & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them against said decision, assessment, and payment, which said notice set forth distinctly and specific-

ally the grounds of their objection thereto; and he further avers, that within thirty days after the date of said ascertainment and liquidation of duties, they appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date, the said Sang Lung & Co. for a valuable consideration, has sold, assigned, and transferred to this plaintiff said claim against said defendant for said sum of 65.60 dollars.

That the same is now due and owing to this plaintiff.

For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 9th day of September, 1886, Sang Lung & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship City of Rio Janeiro, from Hong Kong, China, certain merchandise, to-wit, 1 case cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton, and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the country, from which they were imported, and on which duties were chargeable, was the sum of twenty-four $\frac{47}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Sang Lung & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of 35 per cent ad valorem on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Sang Lung & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused

to allow the said Sang Lung & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Sang Lung & Co., the payment of duties thereon at the rate of forty cents per pound, and thirty-five per cent ad valorem, to wit, the sum of 36.35 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law, fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Sang Lung & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

31 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated, were and are the sum of 8.40 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Sang Lung & Co., on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 36.35 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Sang Lung & Co. was and is not wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 27.95 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Sang Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, the said Sang Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 36.35 dollars, the same being then and there 27.95 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Sang Lung & Co. that he would thereafter, when thereunto requested, pay to the said Sang Lung & Co. the said sum of $27\frac{95}{100}$ dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Sang Lung

& Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties, the said Sang Lung & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date, the said Sang Lung & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff said claim against said defendant for said sum of $27\frac{95}{100}$ dollars.

That the same is now due and owing to this plaintiff.

32 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was and now is collector of customs for the port and collection district of San Francisco.

II.

That on the 9th day of September, 1886, Sang Lung & Co., merchants, of San Francisco, imported into the port of San Francisco by the steamship City of Rio Janeiro, from Hongkong, China, certain merchandise, to wit, 2 cases of silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of silk, and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the country from which they were imported, and on which, were chargeable, duties was the sum of 80.30 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Sang Lung & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of fifty per cent ad valorem, on the dutiable valuation thereof, as

manufacturers of silk not specifically enumerated, silk being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Sang Lung & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Sang Lung & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Sang Lung & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 86.40 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not especially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has, refused to deliver to the said Sang Lung & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

33 That the duties chargeable on said merchandise as manufactures of silk not specially enumerated, were and are the sum of 40 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Sang Lung & Co. on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of eighty-six $\frac{40}{100}$ dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Sang Lung & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 46.40 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Sang Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Sang Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 86.40 dollars, the same being then and there 46.40 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Sang Lung & Co. that he would thereafter, when thereunto requested, pay to the said Sang Lung & Co. the said sum of 46.40 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Sang Lung & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Sang Lung & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Sang Lung & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff said claim against said defendant for said sum of 46.40 dollars.

That the same is now due and owing to this plaintiff.

34 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 16th day of September, 1886, Sang Lung & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship Gaelic, from Hong Kong, China, certain merchandise, to wit: 1 case cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit: the body thereof of cotton, and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the country from which they were imported, and on which duties were chargeable, was the sum of $24\frac{47}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Sang Lung & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz: at the rate of 35 per cent ad valorem, on the dutiable valuation thereof, as manufactures of cotton, not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Sang Lung & Co. further requested that on payment thereof, the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Sang Lung & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Sang Lung & Co. the payment of duties thereon at the rate of forty cents per pound, and thirty-five per cent ad valorem, to wit: the sum of 41.95 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law, fixing duties on wearing appa'l of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said San Lung & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

35 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated, were and are the sum of 8.40 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Sang Lung & Co., on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 41.95 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Sang Lung & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 33.55 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Sang Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Sang Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit: the sum of 41.95 dollars, the same being then and there 33.55 dollars in

excess of the duties lawfully chargeable on said merchandise, in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Sang Lung & Co. that he would thereafter, when thereunto requested, pay to the said Sang Lung & Co. the said sum of 33.55 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers, that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Sang Lung & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers, that within thirty days after the date of said ascertainment and liquidation of duties, the said Sang Lung & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date, the said Sang Lung & Co. for a valuable consideration has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 33.55 dollars.

That the same is now due and owing to this plaintiff.

36 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 16th day of September, 1886, Sang Lung & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship Gaelic, from Hongkong, China, certain merchandise, to wit, 2 cases of silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of silk and the soles thereof of leather and felt, component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the country from which they were imported, and on which duties were chargeable, was the sum of $83\frac{23}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Sang Lung & Co. made entry thereof at the custom house of said port, and applied to the said collector, defendant as aforesaid, and requested that be allowed to pay the duties thereon, viz., at the rate of fifty per cent. ad valorem on the dutiable valuation thereof, as manufactures of silk not specifically enumerated, silk being the component material of chief value, and said rate being the highest rate assessed on said component of chief value; and the said Sang Lung & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Sang Lung & Co. to pay the said duties on the said vaination at said rate, and required and exacted of the said Sang Lung & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent. ad valorem, to wit, the sum of $87\frac{45}{100}$ dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law, fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Sang Lung & Co. said merchandise, on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

37 That the duties chargeable on said merchandise as manufactures of sik not specially enumerated, were and are the sum of 41.50 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Sang Lung & Co. on the the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 87.45 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Sang Lung & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant collector as aforesaid, and required to be paid, was and is the sum of 45.95 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Sang Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Sang Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of $87\frac{45}{100}$ dollars, the same being then and there $45\frac{95}{100}$ dollars in excess of the duties lawfully chargeable on said merchandise; in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Sang Lung & Co. that he would thereafter, when thereunto requested, pay to the said Sang Lung & Co. the said sum of $45\frac{95}{100}$ dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse to pay the said amount, or any part thereof.

VI.

The plaintiff further avers, that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Sang Lung & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same made and delivered to the defendant collector as aforesaid, a protest in writing, signed by them against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers, that within thirty days after the date of said ascertainment and liquidation of duties, the said Sang Lung & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date, the said Sang Lung & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 45.95 dollars.

That the same is now due and owing to this plaintiff.

38 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 19th day of July, 1886, Kwong Mee Lung & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship Belgic, from Hong Kong, China, certain merchandise, to wit: Three cases of silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit: the body thereof of silk and the soles thereof of leather and felt, the component material of chief value of said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of $119\frac{96}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Kwong Mee Lung & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of fifty per cent ad valorem on the dutiable valuation thereof, as manufactures of silk not specifically enumerated, silk being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Kwong Mee Lung & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Kwong Mee Lung & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Kwong Mee Lung & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit: the sum of 124.40 dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused and at all times since has refused to deliver to the said Kwong Mee Lung & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him as aforesaid.

39 That the duties chargeable on said merchandise as manufactures of silk not specially enumerated were and are the sum of 60 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Kwong Mee Lung & Co., on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of $124\frac{40}{100}$ dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Kwong Mee Lung & Co. was and is not wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States,

or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 64^{40} dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that, by reason of the fact that the said defendant refused to surrender to said Kwong Mee Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Kwong Mee Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon and by him required to be paid, to wit: the sum of 124^{40} dollars, the same being then and there 64^{40} dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Kwong Mee Lung & Co. that he would thereafter, when thereunto requested, pay to the said Kwong Mee Lung & Co. the said sum of 64^{40} dollars.

That, though thereunto requested, the said defendant has hitherto refused and does still refuse to pay the said amount or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Kwong Mee Lung & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same made and delivered to the defendant collector, as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that, within thirty days after the date of said ascertainment and liquidation of duties, the said Kwong Mee Lung & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Kwong Mee Lung & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 64^{40} dollars.

That the same is now due and owing to this plaintiff.

40 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 19th day of July, 1886, Kwong Mee Lung & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship Belgic, from Hong Kong, China, certain merchandise, to wit: 1 case cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the country from which they were imported, and on which duties were chargeable, was the sum of 24.48 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Kwong Mee Lung & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Kwong Mee Lung & Co. further requested that on payment thereof, the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Kwong Mee Lung & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Kwong Mee Lung & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit: the sum of 35.80 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer; and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Kwong Mee Lung & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

41 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated, were and are the sum of 8.40 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Kwong Mee Lung & Co., on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 35.80 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Kwong Mee Lung & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 27.40 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Kwong Mee Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Kwong Mee Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 35.80 dollars, the same being then and there 27.40 dollars in excess of the duties lawfully chargeable on said merchandise; in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Kwong Mee Lung & Co., that he would thereafter, when thereunto requested, pay to the said Kwong Mee Lung & Co. the said sum of 27.40 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers, that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Kwong Mee Lung & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same made and delivered to the defendant, collector as aforesaid, a protest in writing signed by them against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers, that within thirty days after the date of said ascertainment and liquidation of duties, the said Kwong Mee Lung & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date, the said Kwong Mee Lung & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 27.40 dollars.

That the same is now due and owing to this plaintiff.

42 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 21st day of August, 1886, Kwong Mee Lung & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship City of Sydney, from Hong Kong, China, certain merchandise, to wit, 6 cases cotton shoes.

That the said shoes, imported as aforesaid, were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported and on which duties were chargeable was the sum of $146\frac{88}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Kwong Mee Lung & Co. made entry thereof at the custom-house of said port and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem, on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value; and the said Kwong Mee Lung & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Kwong Mee Lung & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Kwong Mee Lung & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 248.25 dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer; and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Kwong Mee Lung & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

43 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of 51.45 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Kwong Mee Lung & Co. on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 248.25 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Kwong Mee Lung & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of $196\frac{80}{100}$ dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to the said Kwong Mee Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Kwong Mee Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit: The sum of 248.35 dollars, the same being then and there 196.80 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Kwong Mee Lung & Co. that he would thereafter, when thereunto requested, pay to the said Kwong Mee Lung & Co. the said sum of $196\frac{80}{100}$ dollars.

That though thereunto requested the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Kwong Mee Lung & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Kwong Mee Lung & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Kwong Mee Lung & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 196.80 dollars.

That the same is now due and owing to this plaintiff.

44 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 9th day of September, 1886, Kwong Mee Lung & Co., merchants of San Francisco, imported into the port of San Francisco, by the steamship City of Rio Janeiro, from Hong Long, China, certain merchandise, to-wit, 2 cases of silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to-wit, the body thereof of silk and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the country from which they were imported, and on which duties were chargeable, was the sum of $88\frac{62}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Kwong Mee Lung & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of fifty per cent ad valorem on the dutiable valuation thereof as manufactures of silk not specifically enumerated, silk being the component material of chief value, and the said rate being the highest rate assessed on said component of chief value; and the said Kwong Mee Lung & Co. further requested that on payment thereof the said merchandise be delivered to them, but the said defendant, collector as aforesaid, then and there refused to allow the said Kwong Mee Lung & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Kwong Mee Lung & Co. the payment of duties thereon at the rate of forty cents per pound, and thirty-five per cent ad valorem, to wit, the sum of 88.55 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed

wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress or manufacturer; and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Kwong Mee Lung & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him as aforesaid.

That the duties chargeable on said merchandise as manufactures of silk not specially enumerated, were and are the sum of 44.50 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Kwong Mee Lung & Co. on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 88.55, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Kwong Mee Lung & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 44.05 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Kwong Mee Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Kwong Mee Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 88.55 dollars, the same being then and there 44.05 dollars in excess of the duties lawfully chargeable on said merchandise; in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Kwong Mee Lung & Co. that he would thereafter, when thereunto requested, pay to the said Kwong Mee Lung & Co. the said sum of 44.05 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Kwong Mee Lung & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and

specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Kwong Mee Lung & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11th day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date the said Kwong Mee Lung & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 44.05 dollars.

That the same is now due and owing to this plaintiff.

46 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 9th day of September, 1886, Kwong Mee Lung & Co., merchants, of San Francisco, imported into the port of San Francisco, by the steamship City of Rio Janeiro, from Hong Kong, China, certain merchandise, to wit, 1 case cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof, cotton, and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported and on which duties were chargeable was the sum of 29.36 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Kwong Mee Lung & Co. made entry thereof at the custom-house of said port and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem on the dutiable valuation thereof as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Kwong Mee Lung & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Kwong Mee Lung & Co. to pay the said duties

on the said valuation at said rate and required and exacted of the said Kwong Mee Lung & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 42.15 dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused and at all times since has refused to deliver to the said Kwong Mee Lung & Co. said merchandise except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him as aforesaid.

47 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated, were and are the sum of 10.15 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Kwong Mee Lung & Co. on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 42.15 dollars, which sum was required by him to be paid as duties thereon.

V.

That the merchandise so imported by said Kwong Mee Lung & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 32 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Kwong Mee Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Kwong Mee Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 42.15 dollars, the same being then and there 32 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Kwong Mee Lung & Co. that he would thereafter, when thereunto requested, pay to the said Kwong Mee Lung & Co. the said sum of 32.00 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers, that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Kwong Mee

Lung & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers, that within thirty days after the date of said ascertainment and liquidation of duties, the said Kwong Mee Lung & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date, the said Kwong Mee Lung & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 32.00 dollars.

That the same is now due and owing to this plaintiff.

48 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 16th day of September, 1886, Kwong Mee Lung & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship Gaelic from Hong Kong, China, certain merchandise, to wit, 4 cases of silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of silk and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported and on which duties were chargeable, was the sum of $161\frac{57}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Kwong Mee Lung & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of fifty per cent ad valorem, on the dutiable valuation thereof, as manufactures of silk not specifically enumerated, silk being the

component material of chief value, and said rate being the highest rate assessed on said component of chief value; and the said Kwong Mee Lung & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Kwong Mee Lung & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Kwong Mee Lung & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of $174\frac{75}{100}$ dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Kwong Mee Lung & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

49 That the duties chargeable on said merchandise as manufactures of silk not especially enumerated were and are the sum of 80.50 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Kwong Mee Lung & Co., on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 174.75 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by the said Kwong Mee Lung & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 94.25 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Kwong Lee Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Kwong Mee Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 174.75 dollars, the same being then and there 94.25 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Kwong Mee Lung & Co. that he would thereafter, when thereunto requested, pay to the said Kwong Mee Lung & Co. the said sum of 94.25 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse to pay the said amount or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Kwong Mee Lung & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and, prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Kwong Mee Lung and Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury, thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Kwong Mee Lung & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 94.25 dollars.

That the same is now due and owing to this plaintiff.

50 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 16th day of September, 1886, Kwong Mee Lung & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship Gaellic, from Hong Kong, China, certain merchandise, to wit, 2 cases cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the country from which they were imported, and on which duties were chargeable, was the sum of 53.83 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Kwong Mee Lung & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem, on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value; and the said Kwong Mee Lung & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Kwong Mee Lung & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Kwong Mee Lung & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 77.30 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law, fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer; and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Kwong Mee Lung & Co. said merchandise, except on payment by them to said defendant, collector aforesaid, of the duties so assessed by him as aforesaid.

51 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of 18.90 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Kwong Mee Lung & Co. on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in port of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 77.30 dollars, which sum was required by him to be paid as duties thereon.

V.

That said merchandise so imported by said Kwong Mee Lung & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 58.40 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Kwong Mee Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Kwong Mee Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be

paid, to wit, the sum of 77.30 dollars, the sum being then and there 58.40 dollars in excess of the duties lawfully chargeable on said merchandise; in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Kwong Mee Lung & Co. that he would thereafter, when thereunto requested, pay to the said Kwong Mee Lung & Co. the said sum of 58.40 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers, that within ten days after the ascertainment and liquidation of said duties in the manner herein before described, and prior to the payment of the said duties as aforesaid, the said Kwong Mee Lung & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise: and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers, that within thirty days after the date of said liquidation of duties the said Kwong Mee Lung & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date the said Kwong Mee Lung & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 58.40 dollars.

That the same is now due and owing to this plaintiff.

52 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 21 day of August, 1886, Sung Wo Tai & Co., merchants of San Francisco, imported into the port of San Francisco, by the steamship City of Sydney, from Hong Kong, China, certain merchandise, to wit, 3 cases of cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the country from which they were imported and on which duties were chargeable was the sum of $73\frac{44}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco as aforesaid the said Sung Wo Tai & Co. made entry thereof at the custom house of said port and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent. ad valorem, on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value; and the said Sung Wo Tai & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Sung Wo Tai & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Sung Wo Tai & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent. ad valorem, to wit: the sum of 126.95 dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Sung Wo Tai & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

53 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of 24.55 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Sung Wo Tai & Co., on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of $126\frac{95}{100}$ dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Sung Wo Tai & Co. was and is not wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 102.40 above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Sung Wo Tai & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Sung Wo Tai & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon and by him required to be paid, to wit, the sum of 126.95 dollars, the same being then and there 102.40 dollars in excess of the duties lawfully chargeable on said merchandise; in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Sung Wo Tai & Co. that he would thereafter, when thereunto requested, pay to the said Sung Wo Tai & Co. the said sum of 102.40 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Sung Wo Tai & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Sung Wo Tai & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date the said Sung Wo Tai & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 102.40 dollars.

That the same is now due and owing to this plaintiff.

54 For further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was and now is collector of customs for the port and collection district of San Francisco.

II.

That on the 6th day of August, 1886, Nam Sang, merchants of San Francisco, imported into the port of San Francisco, by the Annie Johnson, from Hong Kong, China, certain merchandise, to wit, 6 cases cotton shoes.

That the said shoes imported, as aforesaid, were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of 139 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Nam Sang made entry thereof at the custom house of said port, and applied to the said collector, defendant as aforesaid, and requested that he be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem, on the dutiable valuation thereof, as manufactures of cotton, not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Nam Sang further requested that on payment thereof, the said merchandise be delivered to him; but the said defendant, collector as aforesaid, then and there refused to allow the said Nam Sang to pay the said duties on the said valuation at said rate, and required and exacted of the said Nam Sang the payment of duties thereon at the rate of forty cents per pound, and thirty-five per cent ad valorem, to wit, the sum of 8220.65 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law, fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Nam Sang said merchandise, except on payment by him to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

55 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated, were and are the sum of 48.65 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Nam Sang on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 220.65 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Nam Sang was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other

animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 172.00 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Nam Sang the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Nam Sang paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 220.65 dollars, the same being then and there 172.00 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Nam Sang that he would thereafter, when thereunto requested, pay to the said Nam Sang the said sum of 172.00 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Nam Sang gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of his dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing signed by him against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of his objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties, the said Nam Sang appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date, the said Nam Sang for a valuable consideration, has sold, assigned, and transferred to this plaintiff his said claim against said defendant for said sum of 172.00 dollars.

That the same is now due and owing to this plaintiff.

56 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 6th day of August, 1886, Nam Sang, merchants of San Francisco, imported into the port of San Francisco by the ship Annie Johnson, from Hongkong, China, certain merchandise, to wit, 1 case of silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of silk and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the country from which they were imported, and on which duties were chargeable, was the sum of 39 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Nam Sang made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that he be allowed to pay the duties thereon, viz, at the rate of fifty per cent ad valorem on the dutiable valuation thereof, as manufactures of silk not specifically enumerated, silk being the component material of chief value, and said rate being the highest rate assessed on said component of chief value; and the said Nam Sang further requested that on payment thereof the said merchandise be delivered to him; but the said defendant, collector as aforesaid, then and there refused to allow the said Nam Sang to pay the said duties on the said valuation at said rate, and required and exacted of the said Nam Sang the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit: the sum of 48.40 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not specifically enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer; and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Nam Sang said merchandise, except on payment by him to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

57 That the duties chargeable on said merchandise as manufactures of silk not specially enumerated, were and are the sum of 19.50 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Nam Sang on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 48.40 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Nam Sang was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 28.90 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to Nam Sang the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Nam Sang paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of $48\frac{40}{100}$ dollars, the same being then and there 28.90 dollars in excess of the duties lawfully chargeable on said merchandise; in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Nam Sang that he would thereafter, when thereunto requested, pay to the said Nam Sang the said sum of 28.90 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount or any part thereof.

VI.

The plaintiff further avers, that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Nam Sang gave notice to the said defendant, collector as aforesaid, in writing on the entry as aforesaid, of his dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise; and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by him against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of his objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties, the said Nam Sang appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Nam Sang, for a valuable consideration, has sold, assigned, and transferred to this plaintiff his said claim against said defendant for said sum of $28\frac{90}{100}$ dollars.

That the same is now due and owing to this plaintiff.

58 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 9th day of August, 1886, Quong Chong Shing and merchants of San Francisco imported into the port of San Francisco, by the steamship San Pablo, from Hong Kong, China, certain merchandise, to wit, 2 cases cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of $48\frac{96}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Quong Chong Shing made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that he be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value; and the said Quong Chong Shing further requests that on payment thereof, the said merchandise be delivered to him; but the said defendant, collector as aforesaid, then and there refused to allow the said Quong Chong Shing to pay the said duties on the said valuation at said rate, and required and exacted of the said Quong Chong Shing the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of $85\frac{75}{100}$ dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing appa'l of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer; and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Quong Chong Shing said merchandise, except on payment by him to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

59 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of 16.95 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Quong Chong Shing on the said merchandise as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 85.75 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Quong Chong Shing was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted wool, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of $68\frac{60}{100}$ dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that, by reason of the fact that the said defendant refused to surrender to said Quong Chong Shing the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Quong Chong Shing paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 85.75 dollars, the same being then and there 68.60 dollars in excess of the duties lawfully chargeable on said merchandise; in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Quong Chong Shing that he would thereafter, when thereunto requested, pay to the said Quong Chong Shing the said sum of 68.60 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Quong Chong Shing gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of his dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by him, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of his objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Quong Chong Shing appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Quong Chong Shing, for a valuable consideration, has sold, assigned, and transferred to this plaintiff his said claim against said defendant for said sum of $68\frac{60}{100}$ dollars.

That the same is now due and owing to this plaintiff.

60 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 28th day of July, 1886, Quong Chong Shing, merchant of San Francisco, imported into the port of San Francisco by the steamship City of Peking, from Hong Kong, China, certain merchandise, to wit: 4 cases of cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit: the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of 98.00 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Quong Chong Shing made entry thereof at the custom-house of said port and applied to the said collector, defendant as aforesaid, and requested that he be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem on the dutiable valuation thereof, as manufactures of ——— not specifically enumerated, cotton being the component material of chief value and said rate being the highest rate assessed on said component of chief value, and the said Quong Chong Shing further requested that on payment thereof the said merchandise be delivered to him; but the said defendant, collector as aforesaid, then and there refused to allow the said Quong Chong Shing to pay the said duties on the said valuation at said rate, and required and exacted of the said Quong Chong Shing the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit: the sum of 159.90 dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing appa'l of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured

wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Quong Chong Shing said merchandise, except on payment by him to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

61 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of 29.30 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Quong Chong Shing on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 159.90 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Quong Chong Shing was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 130.60 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Quong Chong Shing the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Quong Chong Shing paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit: the sum of 159.90 dollars, the same being then and there 130.60 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Quong Chong Shing that he would thereafter, when thereunto requested, pay to the said Quong Chong Shing the said sum of 130.60 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers, that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Quong Chong Shing gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of his dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by him against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of his objection thereto; and he further avers, that

within thirty days after the date of said ascertainment and liquidation of duties, the said Quong Chong Shing appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date, the said Quong Chong Shing for a valuable consideration, has sold, assigned, and transferred to this plaintiff his said claim against said defendant for said sum of 130.60 dollars.

That the same is now due and owing to this plaintiff.

62 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was and now is collector of customs for the port and collection district of San Francisco.

II.

That on the 19th day of July, 1886, Kwong Hang On, merchants of San Francisco, imported into the port of San Francisco by the steamship Belgic, from Hong Kong, China, certain merchandise, to wit, 1 case cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable was the sum of $24\frac{48}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Kwong Hang On made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that he be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem on the dutiable valuation thereof as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Kwong Hang On further requested that on payment thereof, the said merchandise be delivered to him, but the said defendant, collector as aforesaid, then and there refused to allow the said Kwong Hang On to pay the said duties on the said valua-

tion at said rate, and required and exacted of the said Kwong Hang On the payment of duties thereon at the rate of forty cents per pound, and thirty-five per cent ad valorem, to wit, the sum of 38.40, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law, fixing duties on wearing appea'l of every description not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Kwong Hang On said merchandise, except on payment by him to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

63 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of $8\frac{40}{100}$ dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Kwong Hang On on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 38.40 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Kwong Hang On was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 30 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Kwong Hang On the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Kwong Hang On paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit: the sum of $38\frac{40}{100}$ dollars, the same being then and there $30\frac{00}{100}$ dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Kwong Hang On that he would thereafter, when thereunto requested, pay to the said Kwong Hang On the said sum of $\$30\frac{00}{100}$ dollars.

That though thereunto requested, the said defendant has hitherto refused and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Kwong Hang

On gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of his dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by him, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of his objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties, the said Kwong Hang On appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Kwong Hang On, for a valuable consideration, has sold, assigned, and transferred to this plaintiff his said claim against said defendant for said sum of 30^{00} dollars.

That the same is now due and owing to this plaintiff.

64 For a further and additional cause of action, this plaintiff avers:

I.

That at all the time hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 9th day of August, 1886, Kwong Hang On, merchants of San Francisco, imported into the port of San Francisco by the steamship San Pablo, from Hong Kong, China, certain merchandise, to wit, 1 case cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton, and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of $24\frac{48}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Kwong Hang On made entry thereof at the custom house of said port, and applied to the said collector, defendant as aforesaid, and requested that he be allowed to pay the duties thereon, viz, at the rate of

thirty-five per cent ad valorem on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Kwong Hang On further requested that on payment thereof the said merchandise be delivered to him; but the said defendant, collector as aforesaid, then and there refused to allow the said Kwong Hang On to pay the said duties on the said valuation at said rate, and required and exacted of the said Kwong Hang On the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 44.40 dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing appa'l of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Kwong Hang On said merchandise, except on payment by him to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

65 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of $8\frac{40}{100}$ dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Kwong Hang On on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 44.40 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Kwong Hang On was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 36 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Kwong Hang On the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Kwong Hang On paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 44.40 dollars, the same being then and there 36.00 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Kwong Hang On that he would thereafter, when thereunto requested, pay to the said Kwong Hang On the said sum of 36.00 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Kwong Hang On gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of his dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by him, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of his objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Kwong Hang On appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date, the said Kwong Hang On, for a valuable consideration, has sold, assigned, and transferred to this plaintiff his said claim against said defendant for said sum of 36.00 dollars.

That the same is now due and owing to this plaintiff.

66 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 9th day of September, 1866, Kwong Hang On, merchants of San Francisco, imported into the port of San Francisco by the steamship City of Rio Janeiro, from Hong Kong, China, certain merchandise, to wit, 6 cases of cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of $146\frac{88}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Kwong Hang On made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid,

and requested that he be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem, on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Kwong Hang On further requested that on payment thereof, the said merchandise be delivered to him; but the said defendant, collector as aforesaid, then and there refused to allow the said Kwong Hang On to pay the said duties on the said valuation at said rate, and required and exacted of the said Kwong Hang On the payment of duties thereon at the rate of forty cents per pound, and thirty-five per cent ad valorem, to wit, the sum of 284.25 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law, fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Kwong Hang On said merchandise, except on payment by him to said defendant, collector as aforesaid, of the duties so assessed by him as aforesaid.

67 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated, were and are the sum of 51.45 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Kwong Hang On on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat or other animals, was the sum of 284.25 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Kwong Hang On was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 232.80 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Kwong Hang On the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Kwong Hang On paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 284.25 dollars, the same being then and there 232.80 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Kwong Hang On that he would thereafter, when thereunto requested, pay to the said Kwong Hang On the said sum of 232.80 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Kwong Hang On gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of his dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by him against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of his objection thereto; and he further avers, that within thirty days after the date of said ascertainment and liquidation of duties the said Kwong Hang On appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant collector as aforesaid.

VII.

That since the last mentioned date, the said Kwong Hang On for a valuable consideration, has sold, assigned, and transferred to this plaintiff his said claim against said defendant for said sum of 232.80 dollars.

That the same is now due and owing to this plaintiff.

68 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 31 day of July, 1886, Chong Tai & Co., merchants of San Francisco, imported into the port of San Francisco by the John Carrier from Hong Kong, China, certain merchandise, to wit, 3 cases of cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the country from which they were imported, and on which duties were chargeable, was the sum of 73 $\frac{44}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Chong Tai & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent. ad valorem, on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Chong Tai & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Chong Tai & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Chong Tai & Co. the payment of duties thereon at the rate of forty cents per pound, and thirty-five per cent ad valorem, to wit, the sum of 120.35 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law, fixing duties on wearing appea'l of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Chong Tai & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

69 That the duties chargeable on said merchandise as manufactures of cotton, not specially enumerated, were and are the sum of 25.55 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Chong Tai & Co., on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 120.35 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Chong Tai & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 74.80 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Chong Tai & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Chong Tai & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit,

the sum of 120.35 dollars, the same being then and there 74.80 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Chong Tai & Co. that he would thereafter, when thereunto requested, pay to the said Chong Tai & Co. the said sum of $74\frac{80}{100}$ dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Chong Tai & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of his dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by him, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of his objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Chong Tai & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date the said Chong Tai & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff his said claim against said defendant for said sum of 74.80 dollars.

That the same is now due and owing to this plaintiff.

70 For a further and additional cause of action, this plaintiff, avers:

I.

That at all times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 31 day of July, 1886, Wing Chong Wo & Co., merchants of San Francisco, imported into the port of San Francisco, by the ship John Currier, from Hong Kong, China, certain merchandise, to wit, 4 cases of cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the country from which they were imported, and on which duties were chargable, was the sum of $97\frac{92}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Wing Chong Wo & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem, on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Wing Chong Wo & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Wing Chong Wo & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Wing Chong Wo & Co. the payment of duties thereon at the rate of forty cents per pound, and thirty-five per cent ad valorem, to wit, the sum of 171.90 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law, fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Wing Chong Wo & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him as aforesaid.

71 That the duties chargeable on said merchandise as manufactures of cotton, not specially enumerated, were and are the sum of 34.30 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Wing Chong Wo & Co. on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 171.90 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Wing Chong Wo & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of $137\frac{60}{100}$ dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Wing Chong Wo & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Wing Chong Wo & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 171.90 dollars, the same being then and there 137.60 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Wing Chong Wo & Co. that he would thereafter, when thereunto requested, pay to the said Wing Chong Wo & Co. the said sum of 137.60 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers, that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Wing Chong Wo & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers, that within thirty days after the date of said ascertainment and liquidation of duties, the said Wing Chong Wo & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date, the said Wing Chong Wo & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 137.60 dollars.

That the same is now due and owing to this plaintiff.

72 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the seventh day of October, 1886, Kwong Chew Yuen & Co. merchants of San Francisco, imported into the port of San Francisco by the steamship Belgic, from Hongkong, China, certain merchandise, to wit: two cases containing 120 pairs cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit: the body thereof of cotton, and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable was the sum of $49.00 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Kwong Chew Yuen & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz: at the rate of thirty-five per cent ad valorem, on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Kwong Chew Yuen & Co. further requested that on payment thereof, the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Kwong Chew Yuen & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the Kwong Chew Yuen & Co. the payment of duties thereon at the rate of forty cents per pound, and thirty-five per cent ad valorem, to wit: the sum of 77.95, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law, fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Kwong Chew Yuen & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

73 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated, were and are the sum of $\$17\frac{15}{100}$, and the sum exacted by the said defendant, collector as aforesaid, from said Kwong Chew Yuen & Co. on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat or other animals, was the sum of $\$77\frac{95}{100}$, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Kwong Chew Yuen & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca,

goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of $\$60_{\frac{80}{100}}$ above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Kwong Chew Yuen & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Kwong Chew Yuen & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit: the sum of $\$77_{\frac{95}{100}}$ dollars, the same being then and there $\$60_{\frac{80}{100}}$ dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Kwong Chew Yuen & Co. that he would thereafter, when thereunto requested, pay to the said Kwong Chew Yuen & Co. the said sum of $\$60_{\frac{80}{100}}$ dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers, that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Kwong Chew Yuen & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant collector as aforesaid, a protest in writing, signed by Kwong Chew Yuen & Co. against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers, that within thirty days after the date of said ascertainment and liquidation of duties, the said Kwong Chew Yuen & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date, the said Kwong Chew Yuen & Co. for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of $\$60_{\frac{80}{100}}$ dollars.

That the same is now due and owing to this plaintiff.

74 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 7th day of October, 1886, Kwong Chew Yuen & Co., merchants, of San Francisco, imported into the port of San Francisco by the str. Belgic, from Hong Kong, China, certain merchandise, to wit, 1 case of silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of silk and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of 40 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Kwong Chew Yuen & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of 35 per cent ad valorem, on the dutiable valuation thereof, as manufactures of cotton not specially enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Kwong Chew Yuen & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Kwong Chew Yuen & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Kwong Chew Yuen & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 44 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Kwong Chew Yuen & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

75 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of 20 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Kwong Chew Yuen & Co. on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 44 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Kwong Chew Yuen & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of $24\frac{05}{100}$ dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

The plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Kwong Chew Yuen & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Kwong Chew Yuen & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 44.00 dollars, the same being then and there 24.00 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Kwong Chew Yuen & Co. that he would thereafter, when thereunto requested, pay to the said said Kwong Chew Yuen & Co. the said sum of 24.00 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Kwong Chew Yuen & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Kwong Chew Yuen & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Kwong Chew Yuen & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 24— dollars.

That the same is now due and owing to this plaintiff.

76 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 9th day of August, 1886, Chew Ying Lung & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship San Pablo, from Hong Kong, China, certain merchandise, to wit: 2 cases of cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the county from which they were imported, and on which duties were chargeable was the sum of 22 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Chew Ying Lung & Co. made entry thereof at the custom-house of said port and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem, on the dutiable valuation thereof, as manufacture of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Chew Ying Lung & Co. further requested that on payment thereof the said merchandise be delivered to them, but the said defendant, collector as aforesaid, then and there refused to allow the said Chew Ying Ling & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Chew Ying Lung & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit: the sum of $48\frac{30}{100}$ dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Chew Ying Lung & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

77 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated, were and are the sum of $9\frac{10}{100}$ dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Chew Ying Lung & Co., on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat or other animals, was the sum of $48\frac{30}{100}$ dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Chew Ying Lung & Co., was and is not wearing apparel, not specially enumerated or provided for, compssed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of $39\frac{20}{100}$ dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Chew Ying Lung & Co., the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Chew Ying Lung & Co., paid to the said defendant collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit: the sum of 48.30 dollars, the same being then and there 39.20 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Chew Ying Lung & Co., that he would thereafter, when thereunto requested, pay to the said Chew Ying Lung & Co., the said sum of 39.20 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers, that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Chew Ying & Co., gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant collector as aforesaid, a protest in writing, signed by them against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers, that within thirty days after the date of said ascertainment and liquidation of duties, the said Chew Ying Lung & Co., appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date, the said Chew Ying Lung & Co., for a valuable consideration, has sold assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 39.30 dollars.

That the same is now due and owing to this plaintiff.

78 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereina fter mentioned the defendant was, and now is collector of customs for the port and collection district of San Francisco

II.

That on the 9th day of August, 1886, Chew Ying Lung & Co., merchants, of San Francisco, imported into the port of San Francisco by the steamship San Pablo from Hong Kong, China, certain merchandise, to wit, 2 cases of silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of silk, and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported and on which duties were chargeable, was the sum of 41 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Chew Ying Lung & Co. made entry thereof at the custom-house of said port and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of fifty per cent ad valorem on the dutiable valuation thereof as manufactures of silk not specifically enumerated, silk being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Chew Ying Lung & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Chew Ying Lung & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Chew Ying Lung & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of $41\frac{35}{100}$ dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description not specially enumerated or provided for, composed wholly or in part of wool,

worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused and at all times since has refused to deliver to the said Chew Ying Lung & Co. said merchandise except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him as aforesaid.

79 That the duties chargeable on said merchandise as manufactures of silk not specially enumerated were and are the sum of $20\frac{50}{100}$ dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Chew Ying Lung & Co., on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of $41\frac{35}{100}$ dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Chew Ying Lung & Co. was and is not wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 20.85 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Chew Ying Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Chew Ying Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon and by him required to be paid, to wit, the sum of 41.35 dollars, the sum being then and there 20.85 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Chew Ying Lung & Co. that he would thereafter, when thereunto requested, pay to the said Chew Ying Lung & Co. the said sum of 20.85 dollars.

That though thereunto requested the said defendant has hitherto refused and does still refuse to pay the said amount or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Chew Ying Lung & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth

distinctly and specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties, the said Chew Ying Lung & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Chew Ying Lung & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 20.85 dollars.

That the same is now due and owing to this plaintiff.

80 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 9th day of August, 1886, Wing On Lung, merchants of San Francisco, imported into the port of San Francisco by the steamship "San Pablo," from Hong Kong, China, certain merchandise, to wit, four cases cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the county from which they were imported and on which duties were chargeable, was the sum of 98 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Wing On Lung made entry thereof at the custom house of said port, and applied to the said collector, defendant as aforesaid, and requested that he be allowed to pay the duties thereon, viz, at the rate of 35 per cent ad valorem on the dutiable valuation thereof as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Wing On Lung further requested that on payment thereof the said merchandise be delivered to him; but the said defendant, collector as aforesaid, then and there refused to allow the said Wing On Lung to pay the said duties on the

said valuation at said rate, and required and exacted of the said Wing On Lung the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of $169\frac{50}{100}$ dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing appar'l of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Wing On Lung said merchandise, except on payment by him to said defendant, collector as aforesaid, of the duties so assessed by him as aforesaid.

81 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of $34\frac{30}{001}$ dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Wing On Lung on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of $169\frac{50}{100}$ dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Wing On Lung was and is not wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of $135\frac{20}{100}$ dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Wing On Lung the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Wing On Lung paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of $169\frac{50}{100}$ dollars, the same being then and there $135\frac{20}{100}$ dollars in excess of the duties lawfully chargeable on said merchandise; in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Wing On Lung that he would thereafter, when thereunto requested, pay to the said Wing On Lung the said sum of $135\frac{20}{100}$ dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount or any part thereof.

VI.

The plaintiff further avers, that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and

prior to the payment of the said duties as aforesaid, the said Wing On Lung gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of his dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by him, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of his objection thereto; and he further avers, that within thirty days after the date of said ascertainment and liquidation of duties the said Wing On Lung appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date the said Wing On Lung, for a valuable consideration, has sold, assigned, and transferred to this plaintiff his said claim against said defendant for said sum of $135\frac{20}{100}$ dollars.

That the same is now due and owing to this plaintiff.

82 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 9th day of August, 1886, Wing On Lung, merchants of San Francisco, imported into the port of San Francisco, by the steamer San Pablo, from Hong Kong, China, certain merchandise, to wit, 2 cases of silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of silk, and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the county from which they were imported and on which duties were chargeable, was the sum of 78 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Wing On Lung made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that he be allowed to pay the duties thereon, viz, at the rate of fifty per cent ad valorem on the dutiable valuation thereof, as manu-

factures of silk, not specifically enumerated, silk being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Wing On Lung further requested that on payment thereof the said merchandise be delivered to him; but the said defendant, collector as aforesaid, then and there refused to allow the said Wing On Lung to pay the said duties on the said valuation at said rate, and required and exacted of the said Wing On Lung the payment of duties thereon at the rate of forty cents per pound, and thirty-five per cent ad valorem, to wit, the sum of 85.70 dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing appea'l of every description not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Wing On Lung said merchandise, except on payment by him to said defendant, collector as aforesaid, of the duties so assessed by him as aforesaid.

83 That the duties chargeable on said merchandise as manufactures of silk not specially enumerated were and are the sum of 39 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Wing On Lung on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 85.70 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Wing On Lung was and is not wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of $46\frac{70}{100}$ dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Wing On Lung the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Wing On Lung paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 85.76 dollars, the same being then and there 46.76 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Wing On Lung that he would thereafter, when thereunto requested, pay to the said Wing On Lung the said sum of $46\frac{76}{100}$ dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Wing On Lung gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of his dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by him, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of his objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Wing On Lung appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date the said Wing On Lung, for a valuable consideration, has sold, assigned, and transferred to this plaintiff his said claim against said defendant for said sum of $46\frac{76}{100}$ dollars.

That the same is now due and owing to this plaintiff.

84 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 28th day of July, 1886, Lun Sing & Co., merchants of San Francisco, imported into the port of San Francisco, by the steamship City of Peking, from Hong Kong, China, certain merchandise, to wit, 2 cases of cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton, and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the county from which they were imported, and on which duties were chargeable, was the sum of 49 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Lun Sing & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of 35 per cent ad valorem on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Lun Sing & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Lun Sing & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Lun Sing & Co., the payment of duties thereon at the rate of forty cents per pound, and thirty-five per cent ad valorem, to wit, the sum of $89\frac{15}{100}$ dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing appeal of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Lun Sing & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

85 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of 17.15 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Lun Sing & Co., on the said merchandise as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of $89\frac{15}{100}$ dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Lun Sing & Co. was and is not wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 72 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Lun Sing & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, the said Lun Sing & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of $89\frac{15}{100}$ dollars, the same being then and there 72.00

dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Lun Sing & Co. that he would thereafter, when thereunto requested, pay to the said Lun Sing & Co. the said sum of 72.00 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Lun Sing & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties, the said Lun Sing & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date, the said Lun Sing & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 72.00 dollars.

That the same is now due and owing to this plaintiff.

86 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 21st day of September, 1886, Kwong Mee Lung & Co., merchants, of San Francisco, imported into the port of San Francisco, by the G. R. S. Shalfield, from Hongkong, China, certain merchandise, to wit, 2 cases of cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton, and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of 48.96 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Kwong Mee Lung & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem, on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Kwong Mee Lung & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Kwong Mee Lung & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Kwong Mee Lung & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 66.75 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Kwong Mee Lung & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him as aforesaid.

87 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of 17.15 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Kwong Me Lung & Co. on the said merchandise, as wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 66.75 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Kwong Me Lung & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 49.60 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Kwong Mee Lung & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Kwong Mee Lung & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 66.75 dollars, the same being then and there 49.60 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Kwong Mee Lung & Co. that he would thereafter, when thereunto requested, pay to the said Kwong Mee Lung & Co. the said sum of $49\frac{60}{100}$ dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Kwong Mee Lung & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Kwong Mee Lung & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Kwong Mee Lung & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of $49\frac{60}{100}$ dollars.

That the same is now due and owing to this plaintiff.

88 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was and now is collector of customs for the port and collection district of San Francisco.

II.

That on the 28th day of June, 1886, Hip Tuck Jan & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship Gaelic, from Hongkong, China, certain merchandise, to wit: 8 cases cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit: the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of $245\frac{78}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Hip Tuck Jan & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of 35 per cent ad valorem on the dutiable valuation thereof, as manufactures of cotton, not specifically enumerated, cotton being the component material of chief value and said rate being the highest rate assessed on said component of chief value, and the said Hip Tuck Jan & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Hip Tuck Jan & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Hip Tuck Jan & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 377.35 dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing appa'l of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused and at all times since has refused to deliver to the said Hip Tuck Jan & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him as aforesaid.

89 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of $104\frac{39}{100}$ dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Hip Tuck Jan & Co., on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 377.35 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Hip Tuck Jan & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat,

or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 273.05 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that, by reason of the fact that the said defendant refused to surrender to said Hip Tuck Jan & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Hip Tuck Jan & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon and by him required to be paid, to wit, the sum of $377\frac{35}{100}$ dollars, the same being then and there $273\frac{05}{100}$ dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Hip Tuck Jan & Co. that he would thereafter, when thereunto requested, pay to the said Hip Tuck Jan & Co. the said sum of 273.05 dollars.

That, though thereunto requested, the said defendant has hitherto refused and does still refuse to pay the said amount or any part thereof.

VI.

The plaintiff further avers that, within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described and prior to the payment of the said duties as aforesaid, the said Hip Tuck Jan & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and, prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that, within thirty days after the date of said ascertainment and liquidation of duties, the said Hip Tuck Jan & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Hip Tuck Jan & Co. for a valuable consideration has sold, assigned, and transferred to this plaintiff said claim against said defendant for said sum of 273.05 dollars.

That the same is now due and owing to this plaintiff.

90 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 28th day of June, 1886, Hip Tuck Jan & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship Gaelic, from Hong-Kong, China, certain merchandise, to wit, 6 cases of silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of silk and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the country from which they were imported, and on which duties were chargeable, was the sum of $143\frac{21}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Hip Tuck Jan & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz. at the rate of fifty per cent. ad valorem on the dutiable valuation thereof, as manufactures of silk not specifically enumerated, silk being the component material of chief value, and said rate being the highest rate assessed on said component of chief value; and the said Hip Tuck Jan & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Hip Tuck Jan & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Hip Tuck Jan & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent. ad valorem, to wit, the sum of $234\frac{40}{100}$ dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Hip Tuck Jan & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

91 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of 71.70 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Hip Tuck Jan & Co. on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of $234\frac{70}{100}$ dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Hip Tuck Jan & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 162.70 above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Hip Tuck Jan & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Hip Tuck Jan & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 234.40 dollars, the same being then and there 71.70 dollars in excess of the duties lawfully chargeable on said merchandise; in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Hip Tuck Jan & Co. that he would thereafter, when thereunto requested, pay to the said Hip Tuck Jan & Co. the said sum of 71.70 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers, that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Hip Tuck Jan & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers, that within thirty days after the date of said ascertainment and liquidation of duties, the said Hip Tuck Jan & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Hip Tuck Jan & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 71.70 dollars.

That the same is now due and owing to this plaintiff.

92 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 28th day of July, 1886, Lun Tye & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship City of Peking, from Hongkong, China, certain merchandise, to wit: two cases of cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit: the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of $48\frac{96}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Lun Tye & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value and said rate being the highest rate assessed on said component of chief value, and the said Lun Tye & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Lun Tye & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Lun Tye & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 81.15 dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused and at all times since has refused to deliver to the said Lun Tye & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him as aforesaid.

93 That the duties chargeable on said merchandise as manufacture of cotton not specially enumerated were and are the sum of 17.15

dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Lun Tye & Co., on the said merchandise, as wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 81.15 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Lun Tye & Co. was and is not wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 64 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that, by reason of the fact that the said defendant refused to surrender to said Lun Tye & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Lun Tye & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon and by him required to be paid, to wit: the sum of 81.15 dollars, the same being then and there 64 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Lun Tye & Co. that he would thereafter, when thereunto requested, pay to the said Lun Tye & Co. the said sum of 64 dollars.

That, though thereunto requested, the said defendant has hitherto refused and does still refuse to pay the said amount or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Lun Tye & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that, within thirty days after the date of said ascertainment and liquidation of duties, the said Lun Tye & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Lun Tye & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 69 dollars.

That the same is now due and owing to this plaintiff.

94 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was and now is collector of customs for the port and collection district of San Francisco.

II.

That on the 9th day of August, 1886, Lun Tye & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship San Pablo, from Hongkong, China, certain merchandise, to wit: 1 case silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of silk and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of 39 $\frac{19}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Lun Tye & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of fifty per cent ad valorem on the dutiable valuation thereof, as manufactures of silk not specifically enumerated, silk being the component material of chief value and said rate being the highest rate assessed on said component of chief value, and the said Lun Tye & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Lun Tye & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Lun Tye & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 45.65 dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part

by the tailor, seamstress, or manufacturer; and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Lun Tye & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him as aforesaid.

95 That the duties chargeable on said merchandise as manufactures of silk not specially enumerated were and are the sum of 19.50 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Lun Tye & Co., on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 45.65 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Lun Tye & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 26.15 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Lun Tye & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Lun Tye & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 45.65 dollars, the same being then and there 26.15 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Lun Tye & Co. that he would thereafter, when thereunto requested, pay to the said Lun Tye & Co. the said sum of $26\frac{15}{100}$ dollars.

That, though thereunto requested, the said defendant has hitherto refused, and does still refuse to pay the said amount or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Lun Tye & Co. gave notice to the said defendant, collector as aforesaid, in writing on the entry as aforesaid, of their dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same made and delivered to the defendant collector as aforesaid a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further

avers that within thirty days after the date of said ascertainment and liquidation of duties the said Lun Tye & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Lun Tye & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 26.15 dollars.

That the same is now due and owing to this plaintiff.

96 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 9th day of August, 1886, Lun Tye & Co., merchants, of San Francisco, imported into the port of San Francisco by the steamship San Pablo, from Hongkong, China, certain merchandise, to wit, 1 case cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit: the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of 24.48 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Lun Tye & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem, on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Lun Tye & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Lun Tye & Co. to pay the said duties on

the said valuation at said rate, and required and exacted of the said Lun Tye & Co. the payment of duties thereon at the rate of 40 cents per pound and thirty-five per cent. ad valorem, to wit, the sum of $41\frac{95}{100}$ dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Lun Tye & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him as aforesaid.

97 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of 8.40 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Lun Tye & Co., on the said merchandise, as wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of $41\frac{95}{100}$ dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Lun Tye & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of $33\frac{55}{100}$ above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Lun Tye & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Lun Tye & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 41.95 dollars, the same being then and there $33\frac{55}{100}$ dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Lun Tye & Co. that he would thereafter, when thereunto requested, pay to the said Lun Tye & Co. the said sum of $33\frac{55}{100}$ dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Lun Tye &

Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties, the said Lun Tye & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Lun Tye & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of $33\frac{55}{100}$ dollars.

That the same is now due and owing to this plaintiff.

98 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 21st day of August, 1886, Lun Tye & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship City of Sydney from Hong-Kong, China, certain merchandise, to wit, 2 cases of silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of silk and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported and on which duties were chargeable, was the sum of 88.00 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Lun Tye & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of fifty per cent ad valorem, on the dutiable valuation thereof, as manufactures of silk not specifically enumerated, silk being the component material of

chief value, and said rate being the highest rate assessed on said component of chief value; and the said Lun Tye & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Lun Tye & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Lun Tye & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 92.40 dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Lun Tye & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

99 That the duties chargeable on said merchandise as manufactures of silk not specially enumerated were and are the sum of 44.00 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Lun Tye & Co., on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 92.40 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by the said Lun Tye & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 48.40 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Lun Tye & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Lun Tye & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 92.40 dollars, the same being then and there 48.40 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Lun Tye & Co. that he would thereafter, when thereunto requested, pay to the said Lun Tye & Co. the said sum of 48.40 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Lun Tye & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and, prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Lun Tye & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Lum Tye & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 48.40 dollars.

That the same is now due and owing to this plaintiff.

100 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 21st day of August, 1886, Lun Tye & Co., merchants of San Francisco, imported into the port of San Francisco by the steamship Gaelic, from Hong Kong, China, certain merchandise, to wit, 1 case of silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of silk and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of $58\frac{75}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Lun Tye & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of fifty per cent ad valorem, on the dutiable valuation thereof, as manufactures of silk not specifically enumerated, silk being the component material of chief value, and said rate being the highest rate assessed on said component of chief value; and the said Lun Tye & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Lun Tye & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Lun Tye & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of $53\frac{85}{100}$ dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing appeal of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer; and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Lun Tye & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him as aforesaid.

101 That the duties chargeable on said merchandise as manufactures of silk not specially enumerated were and are the sum of 29.50 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Lun Tye & Co. on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of $53\frac{85}{100}$ dollars, which sum was required by him to be paid as duties thereon.

V.

That said merchandise so imported by said Lun Tye & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 24.35 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Lun Tye & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Lun Tye & Co. paid to the said defendant, collector as aforesaid, the

amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of $53\frac{85}{100}$ dollars, the same being then and there $24\frac{35}{100}$ dollars in excess of the duties lawfully chargeable on said merchandise; in consideration whereof, the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Lun Tye & Co. that he would thereafter, when thereunto requested, pay to the said Lun Tye & Co. the said sum of $24\frac{55}{100}$ dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Lun Tye & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise; and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers, that within thirty days after the date of said ascertainment and liquidation of duties the said Lun Tye & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Lun Tye & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of $24\frac{35}{100}$ dollars.

That the same is now due and owing to this plaintiff.

102 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was and now is collector of customs for the port and collection district of San Francisco.

II.

That on the 9th day of December, 1886, Lun Tye & Co., merchants of San Francisco, imported into the port of San Francisco, by the steamship Gaelic from Hong Kong, China, certain merchandise, to wit, 2 cases of silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of silk and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported and on which duties were chargeable was the sum of $80\frac{78}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco as aforesaid the said Lun Tye & Co. made entry thereof at the custom-house of said port and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of fifty per cent ad valorem, on the dutiable valuation thereof, as manufactures of silk not specifically enumerated, silk being the component material of chief value, and said rate being the highest rate assessed on said component of chief value; and the said Lun Tye & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Lun Tye & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Lun Tye & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 79.15 dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing appa'l of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Lun Tye & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid,
of the duties so assessed by him, as aforesaid.

103 That the duties chargeable on said merchandise as manufactures of silk not specially enumerated were and are the sum of 40.50 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Lun Tye & Co., on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of $79\frac{15}{100}$ dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Lun Tye & Co. was and is not wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 38.65 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Lun Tye & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Lun Tye & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon and by him required to be paid, to wit, the sum of $79\frac{15}{100}$ dollars, the same being then and there $38\frac{65}{100}$ dollars in excess of the duties lawfully chargeable on said merchandise; in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Lun Tye & Co. that he would thereafter, when thereunto requested, pay to the said Lun Tye & Co. the said sum of $38\frac{65}{100}$ dollars *dollars*.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Lun Tye & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Lun Tye & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last mentioned date the said Lun Tye & Co., for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of $38\frac{65}{100}$ dollars.

That the same is now due and owing to this plaintiff.

104 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was and now is collector of customs for the port and collection district of San Francisco.

II.

That on the 9th day of December, 1886, Lun Tye & Co. merchants of San Francisco, imported into the port of San Francisco, by the steamship Gaelic, from Hong Kong, China, certain merchandise, to wit, 4 cases of cotton shoes.

That the said shoes imported, as aforesaid, were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of $97\frac{92}{100}$ dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Lun Tye & Co. made entry thereof at the custom house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem, on the dutiable valuation thereof, as manufactures of cotton, not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Lun Tye & Co. further requested that on payment thereof, the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Lun Tye & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Lun Tye & Co. the payment of duties thereon at the rate of forty cents per pound, and thirty-five per cent ad valorem, to wit, the sum of $137.70 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law, fixing duties on wearing ap*pea*'l of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Lun Tye & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

105 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated, were and are the sum of 34.30 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Lun Tye & Co. on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 132.70 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Lun Tye & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other

animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 98.40 above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Lun Tye & Co, the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Lun Tye & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 132.70 dollars, the same being then and there 98.40 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Lun Tye & Co. that he would thereafter, when thereunto requested, pay to the said Lun Tye & Co. the said sum of 98.40 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Lun Tye & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing signed by them against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties, the said Lun Tye & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date, the said Lun Tye & Co. for a valuable consideration, has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of 98.40 dollars.

That the same is now due and owing to this plaintiff.

106 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 28th day of July, 1886, Nam Sang, merchants of San Francisco, imported into the port of San Francisco by the steamship City of Peking, from Hong-Kong, China, certain merchandise, to wit, 16 cases of cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of 392 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Nam Sang made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that he be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value; and the said Nam Sang further requested that on payment thereof the said merchandise be delivered to him; but the said defendant, collector as aforesaid, then and there refused to allow the said Nam Sang to pay the said duties on the said valuation at said rate, and required and exacted of the said Nam Sang the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 699.60 dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing appa'l of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer; and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Nam Sang said merchandise, except on payment by him to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

107 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of 157.20 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Nam Sang on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 699.60 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Nam Sang was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of $542\frac{40}{100}$ dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Nam Sang the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Nam Sang paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 699.60 dollars, the same being then and there 542.40 dollars in excess of the duties lawfully chargeable on said merchandise; in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Nam Sang that he would thereafter, when thereunto requested, pay to the said Nam Sang the said sum of $542\frac{40}{100}$ dollars.

That though thereunto requested the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Nam Sang gave notice to the said defendant, collector as aforesaid, in writing on the entry as aforesaid, of his dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise; and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by him against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of his objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties, the said Nam Sang appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Nam Sang, for a valuable consideration, has sold, assigned, and transferred to this plaintiff his said claim against said defendant for said sum of $542\frac{40}{100}$ dollars.

That the same is now due and owing to this plaintiff.

108 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 29th day of September, 1886, Kwong Fong Woo & Co., merchants of San Francisco, imported into the port of San Francisco, by the steamship City of Rio Janeiro from Hong Kong, China, certain merchandise, to wit, 2 cases of silk shoes.

That the said shoes imported, as aforesaid, were composed of various materials, to wit, the body thereof of silk and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of 78 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Kwong Fong Woo & Co. made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that they be allowed to pay the duties thereon, viz, at the rate of 50 per cent ad valorem on the dutiable valuation thereof, as manufactures of silk not specifically enumerated, silk being the component material of chief value, and said rate being the highest rate assessed on said component of chief value; and the said Kwong Fong Woo & Co. further requested that on payment thereof the said merchandise be delivered to them; but the said defendant, collector as aforesaid, then and there refused to allow the said Kwong Fong Woo & Co. to pay the said duties on the said valuation at said rate, and required and exacted of the said Kwong Fong Woo & Co. the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of $81\frac{76}{0}$ dollars, said duties being assessed by said collector on said merchandise, on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing appa'l of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer; and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Quong Fong Woo & Co. said merchandise, except on payment by them to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

109 That the duties chargeable on said merchandise as manufactures of silk not specially enumerated were and are the sum of 39 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Kwong Fong Woo & Co. on the said merchandise as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 81.70 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Kwong Fong Woo & Co. was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of $42\frac{70}{100}$ above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Kwong Fong Woo & Co. the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise said Kwong Fong Woo & Co. paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of $81\frac{70}{100}$ dollars, the same being then and there 42.70 dollars in excess of the duties lawfully chargeable on said merchandise; in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Kwong Fong Woo & Co. that he would thereafter, when thereunto requested, pay to the said Kwong Fong Woo & Co. the said sum of $42\frac{70}{100}$ dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Kwong Fong Woo & Co. gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of their dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by them, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of their objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Kwong Fong Woo & Co. appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Kwong Fong Woo & Co. for a valuable consideration has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of $42\frac{70}{100}$ dollars.

That the same is now due and owing to this plaintiff.

110 For a further and additional cause of action this plaintiff avers:

I.

That at all the times hereinafter mentioned the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 16th day of September, 1886, Wing On Lung, merchants of San Francisco, imported into the port of San Francisco by the steamship Gaelic, from Hong Kong, China, certain merchandise, to wit: 1 case of silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit: The body thereof of silk, and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the country from which they were imported, and on which duties were chargeable, was the sum of 39 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Wing On Lung made entry thereof at the custom-house of said port and applied to the said collector, defendant as aforesaid, and requested that he be allowed to pay the duties thereon, viz, at the rate of fifty per cent ad valorem on the dutiable valuation thereof, as manufactures of silk not specifically enumerated, silk being the component material of chief value and said rate being the highest rate assessed on said component of chief value, and the said Wing On Lung further requested that on payment thereof the said merchandise be delivered to him; but the said defendant, collector as aforesaid, then and there refused to allow the said Wing On Lung to pay the said duties on the said valuation at said rate, and required and exacted of the said Wing On Lung the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 46.25 dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured

wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Wing On Lung said merchandise, except on payment by him to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

111 That the duties chargeable on said merchandise as manufactures of silk not specially enumerated were and are the sum of 19.50 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Wing On Lung on the said merchandise, as wearing apparel not specially enumerated or provided for composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 46.85 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Wing On Lung was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 27.35 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers, that by reason of the fact that the said defendant refused to surrender to said Wing On Lung the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Wing On Lung paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 46.85 dollars, the same being then and there $27\frac{35}{100}$ dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Wing On Lung that he would thereafter, when thereunto requested, pay to the said Wing On Lung the said sum of $27\frac{35}{100}$ dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers, that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Wing On Lung gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of his dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by him, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of his objection thereto; and he further avers, that

within thirty days after the date of said ascertainment and liquidation of duties the said Wing On Lung appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Wing On Lung, for a valuable consideration, has sold, assigned, and transferred to this plaintiff his said claim against said defendant for said sum of $27\frac{35}{100}$ dollars.

That the same is now due and owing to this plaintiff.

112 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was and now is collector of customs for the port and collection district of San Francisco.

II.

That on the 7th day of October, 1886, Wing On Lung, merchants of San Francisco, imported into the port of San Francisco by the steamship Belgic, from Hongkong, China, certain merchandise, to wit, 1 case silk shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of silk and the soles thereof of leather and felt, the component material of chief value in said shoes being silk.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of 39 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Wing On Lung made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that he be allowed to pay the duties thereon, viz, at the rate of fifty per cent ad valorem on the dutiable valuation thereof as manufactures of silk not specifically enumerated, silk being the component material of chief value, and said rate being the highest rate assessed on said component of chief value, and the said Wing On Lung further requested that on payment thereof the said merchandise be delivered to him, but the said defendant, collector as aforesaid, then and there refused to allow the said Wing On Lung to pay the said duties on the said valuation at said rate, and required and exacted of the said Wing On Lung the

payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 46.25 dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law, fixing duties on wearing apparel of every description not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused to deliver to the said Wing On Lung said merchandise, except on payment by him to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

113 That the duties chargeable on said merchandise as manufactures of silk not specially enumerated were and are the sum of $19\frac{50}{100}$ dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Wing On Lung on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 46.25 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Wing On Lung was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of $26\frac{75}{100}$ dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Wing On Lung the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Wing On Lung paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of 46.25 dollars, the same being then and there 26.75 dollars in excess of the duties lawfully chargeable on said merchandise, in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Wing On Lung that he would thereafter, when thereunto requested, pay to the said Wing On Lung the said sum of 26.75 dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Wing On Lung gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of his dissatisfaction with his decision, imposing and requiring payment of the said duties on said merchandise, and prior to the payment of the same, made and delivered to the defendant, collector

as aforesaid, a protest in writing, signed by him, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of his objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Wing On Lung appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date the said Wing On Lung for a valuable consideration has sold, assigned, and transferred to this plaintiff his said claim against said defendant for said sum of $26\frac{75}{100}$ dollars.

That the same is now due and owing to this plaintiff.

114 For a further and additional cause of action, this plaintiff avers:

I.

That at all the times hereinafter mentioned, the defendant was, and now is, collector of customs for the port and collection district of San Francisco.

II.

That on the 7th day of October, 1886, Wing On Lung, merchants of San Francisco, imported into the port of San Francisco by the steamship Belgic, from Hong Kong, China, certain merchandise, to wit, 1 case of cotton shoes.

That the said shoes imported as aforesaid were composed of various materials, to wit, the body thereof of cotton and the soles thereof of leather and felt, the component material of chief value in said shoes being cotton.

III.

That the actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the count'y from which they were imported, and on which duties were chargeable, was the sum of 25 dollars.

IV.

That on the importation of said shoes at the port of San Francisco, as aforesaid, the said Wing On Lung made entry thereof at the custom-house of said port, and applied to the said collector, defendant as aforesaid, and requested that he be allowed to pay the duties thereon, viz, at the rate of thirty-five per cent ad valorem on the dutiable valuation thereof, as manufactures of cotton not specifically enumerated, cotton being the component material of chief value, and said rate being the highest rate assessed on said component of chief value and the said Wing On Lung further requested that on payment thereof the said merchandise be delivered to him; but the said defendant, collector as aforesaid, then and there refused to allow the said Wing On Lung to pay the said duties on the said valuation at said rate, and required and exacted of the said Wing On Lung

the payment of duties thereon at the rate of forty cents per pound and thirty-five per cent ad valorem, to wit, the sum of 42.35 dollars, said duties being assessed by said collector on said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing appa'l of every description, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, and the said defendant, collector as aforesaid, then and there refused, and at all times since has refused, to deliver to the said Wing On Lung said merchandise, except on payment by him to said defendant, collector as aforesaid, of the duties so assessed by him, as aforesaid.

115 That the duties chargeable on said merchandise as manufactures of cotton not specially enumerated were and are the sum of 8.40 dollars, and the sum exacted by the said defendant, collector as aforesaid, from said Wing On Lung on the said merchandise, as wearing apparel not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, was the sum of 42.35 dollars, which sum was required by him to be paid as duties thereon.

V.

That the said merchandise so imported by said Wing On Lung was and is not wearing apparel, not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animal, within the meaning of the laws of the United States, or dutiable as such, and that the sum so exacted by the said defendant, collector as aforesaid, and required to be paid, was and is the sum of 33.95 dollars above and in excess of the sum lawfully chargeable as duties on said merchandise.

This plaintiff avers that by reason of the fact that the said defendant refused to surrender to said Wing On Lung the said merchandise, except on payment of the amount of duties as assessed by him thereon, and solely for the purpose of obtaining possession of said merchandise, said Wing On Lung paid to the said defendant, collector as aforesaid, the amount of duties assessed by him thereon, and by him required to be paid, to wit, the sum of $42\frac{35}{100}$ dollars, the same being then and there $33\frac{95}{100}$ dollars in excess of the duties lawfully chargeable on said merchandise; in consideration whereof the said defendant, collector as aforesaid, then and there promised and agreed to and with the said Wing On Lung that he would thereafter, when thereunto requested, pay to the said Wing On Lung the said sum of $33\frac{95}{100}$ dollars.

That though thereunto requested, the said defendant has hitherto refused, and does still refuse, to pay the said amount, or any part thereof.

VI.

The plaintiff further avers that within ten days after the ascertainment and liquidation of said duties in the manner hereinbefore described, and prior to the payment of the said duties as aforesaid, the said Wing On Lung gave notice to the said defendant, collector as aforesaid, in writing, on the entry as aforesaid, of his dissatisfaction with his decision imposing and requiring payment of the said duties on said merchandise, and prior to the

payment of the same, made and delivered to the defendant, collector as aforesaid, a protest in writing, signed by him, against said decision, assessment, and payment, which said notice set forth distinctly and specifically the grounds of his objection thereto; and he further avers that within thirty days after the date of said ascertainment and liquidation of duties the said Wing On Lung appealed from the said decision of said collector to the Secretary of the Treasury.

That the Secretary of the Treasury thereafter, on the 11 day of July, 1887, rendered his decision in writing on the said appeal, affirming the decision of the defendant, collector as aforesaid.

VII.

That since the last-mentioned date, the said Wing On Lung, for a valuable consideration, has sold, assigned, and transferred to this plaintiff his said claim against said defendant for said sum of $33\frac{95}{100}$ dollars.

That the same is now due and owing to this plaintiff.

116 Wherefore, the plaintiff prays judgment against the defendant for said sum of three thousand seven hundred and ninety-nine $\frac{56}{100}$ dollars with interest and costs of suit.

PAGE & EELLS,
Attorneys for plaintiff.

STATE OF CALIFORNIA,
City and county of San Francisco, ss:

R. H. Swayne, being duly sworn, deposes and says: I am the plaintiff in the above entitled cause; I have read the foregoing complaint and know its contents; the same is true except as to the matters therein stated on information and belief, and as to those matters I believe it to be true. Subscribed and sworn to before me this 8th day of October, 1887.

ROBT. H. SWAYNE.

JAMES L. KING,
Notary Public.

117 In the superior court of the city and county of San Mateo, State of California.

R. H. SWAYNE, PLAINTIFF,
vs.
JOHN S. HAGER, COLLECTOR OF THE PORT and collection district of San Francisco.

Action brought in the superior court of the city and county of San Francisco, State of California, and the complaint being filed in said city and county of San Francisco, in the office of the clerk of said superior court.

Summons.

The people of the State of California send greeting to John S. Hager, collector of the port and collection district of San Francisco, defendant.

You are hereby required to appear in an action brought against you by the above-named plaintiff in the superior court of the city and county of San Francisco, State of California, and to answer the complaint filed

therein within ten days (exclusive of the day of service) after the service on you of this summons, if served within this city and county, or
118 if served elsewhere within thirty days, or judgment by default will be taken against you, according to the prayer of said complaint.

The said action is brought to recover the sum of $3,799 $\frac{56}{100}$, with interest and costs, alleged to be due by you as excess of duties exacted on importations of cotton and silk shoes by Sang Lung & Co., Kwong Mee Lung & Co., Hip Tuck Jan & Co., Lun Tye & Co., Nam Sang, Quong Chong Sing, Kwong Hang On, Chong Tai & Co., Song Wo Tai & Co., Wing Chong Wo & Co., Ying Lung & Co., Wing On Lung, Lun Sing & Co., Kwong Fong Woo & Co., Kwong Chew Yuen & Co., the claims of said importers having been assigned to the plaintiff.

All of which fully appears in the complaint herein reference to which is hereby made.

And you are hereby notified that if you fail to appear and answer the said complaint as above required, the said plaintiff will take judgment against you for said sum of $3,799 $\frac{56}{100}$ dollars with interest & costs.

Given under my hand and seal of the superior court, at
119 the city and county of San Francisco, State of California, this eighth day of October, in the year of our Lord one thousand eight hundred and eighty-seven.

[SEAL.]

WM. J. RUDDICK, *Clerk.*
By THOS. CROKE,
Deputy Clerk.

(Endorsed:) Served Oct. 10, '87. E. B. J. P. D. C. Filed October 29th, 1887. L. S. B. Sawyer, clerk.

120 In the circuit court of the United States for the ninth circuit, in and for the northern district of California.

R. H. SWAYNE, PLAINTIFF,
v.
JOHN S. HAGER, COLLECTOR OF THE PORT AND collection district of California, defendant.

Answer.

Now comes the defendant in the above entitled cause, and for answer to the first cause of action set out in plaintiff's complaint admits each and every allegation in said complaint contained pertaining to said cause of action not hereinafter specifically denied.

Defendant admits that Lang Lung & Co., merchants of San Francisco, imported into this port of San Francisco by the steamer Gaelic from Hong Kong, China, on the 28th day of June, 1886, certain merchandise, to wit,
two cases of shoes composed of various materials, to wit, the body
121 thereof of silk, and the soles thereof of leather and felt, and alleges that said felt is composed of hair of animals in part, but he is informed and he believes, and upon his information and belief he denies that the component material of chief value in said shoes is silk.

Defendant admits all the facts alleged in the fourth paragraph of the first cause of action set out in plaintiff's complaint, save that he as col-

lector aforesaid assessed the duties upon said merchandise on the basis and assumption that the same was dutiable under the provisions of law fixing duties on wearing apparel of every description not specifically enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, sempstress, of manufacturer, and, as to the latter fact he alleges that he did assess the duties on said merchandise under the provisions of schedule K of an act of Congress entitled "An act to re-
122 duce internal revenue taxation, and for other purposes," approved March 3rd, 1883, and that the same was dutiable under the provisions of said act fixing duties on wearing apparel of every description not specially enumerated or provided for, composed in part of the hair of animals made up and manufactured wholly or in part by the tailor, sempstress, or manufacturer.

Defendant admits all the facts alleged in paragraph five of the first cause of action set out in plaintiff's complaint, save that he is informed and he believes and upon such information and belief he alleges that said merchandise so imported by said importers was and is wearing apparel not specifically enumerated or provided for, composed in part of the hair of the alpaca, goat or other animals, made up or manufactured wholly or in part by the tailor, sempstress, or manufacturers within the meaning of the laws of the United States, and are and were dutiable as such; and he denies that the amount exacted by this defendant, as collector, and that he
123 required to be paid was twenty-five dollars, or any other sum above or in excess of the sum lawfully chargeable as duties on said merchandise.

Defendant denies that the sum of twenty-five dollars or any other amount, is now due and owing to the plaintiff from defendant for duties exacted in excess of the sum lawfully chargeable as duties on said merchandise or upon any account.

Wherefore, defendant having fully answered plaintiff's first cause of action set in plaintiff's complaint on file herein prays the judgment of this court that plaintiff take nothing by said first cause of action set out and that the defendant have and recover from plaintiff his costs in this behalf expended.

U. S. attorney for the defendant.

CITY AND COUNTY OF SAN FRANCISCO,
Northern district and State of California, ss:

John S. Hager, being first duly sworn, on his oath deposes and
124 says that he is the defendant in the above entitled cause, that he has heard read the foregoing answer to the first cause of action set out in the complaint and he knows its contents, and that the same is true of his own knowledge, except as to matters and things therein stated on his information and belief, and as to them he believes it to be true.

For answer to the second and the following forty-five separate causes of action set in plaintiff's complaint on file in the above-entitled cause, defendant denies generally and specifically each and every allegation contained in each and every of said separate cause of action.

Wherefore the defendant prays the judgment of this court that plaintiff take nothing by the second and the following forty-five, or either of said separate causes of action set out in plaintiff's complaint, and that defendant have and recover from plaintiff his costs in this behalf incurred.

JOHN T. CAREY,
U. S. Attorney for the Defendant.

125 The sufficiency of the foregoing answer to raise are the issues on the part of the defence is hereby agreed to, and verification thereof by the defendant is waived.

PAGE & EELLS,
Attys. for Plff.

Aug. 31, '88.

(Endorsed:) Due service of the within answer admitted this 31 August, 1888. Page & Eells, plffs. attys. Filed August 31, 1888, L. S. B. Sawyer, clerk.

126 SWAYNE
v.
HAGER. } No. 5391.

Stipulation waiving jury trial.

A trial by jury in the above-entitled cause is hereby waived.

PAGE & EELLS,
For Plff.
JOHN T. CAREY,
U. S. Attorney.

Aug. 30, '88.

(Endorsed:) Filed August 30, 1888. L. S. B. Sawyer, clerk. By F. D. Monckton, deputy clerk.

127 In the circuit court of the United States, northern district of California.

R. H. SWAYNE, PLAINTIFF.
vs.
JOHN S. HAGER, COLLECTOR, ETC., DEFENDANT.

Stipulation as to findings.

Whereas all of the counts in the complaint in the above-entitled cause are similar in all respects, excepting as to the name of the importer and the amounts actually charged as well as those claimed to be properly chargeable as duties on the various importations therein set forth, and excepting further, that some of the said importations are of cotton and others of silk shoes, and

Whereas the findings of the court in said cause may be more conveniently made under two heads, that is to say, "cotton shoes" and "silk shoes," by grouping the said counts under the said heads and thereby

128 making one finding of fact apply to all.

It is now stipulated and agreed by and between the parties hereto that all the importations of cotton shoes referred to in said several counts may be considered under one head and finding, and all of the said importations of silk shoes may be considered under another head.

PAGE & EELLS,
Attorneys for Plaintiff.
JOHN T. CAREY,
United States Attorney for Defendant.

129 In the circuit court of the United States, northern district of California.

R. H. SWAYNE, PLAINTIFF,
vs.
JOHN S. HAGER, COLLECTOR, &C., DEFENDANT.

Findings.

The respective parties in the above-entitled cause having by their written stipulation, hereunto annexed, agreed that the findings of the court therein should, for the purposes of convenience, be made under two heads, that is to say, under the heads of "cotton shoes" and "silk shoes," the court having heard the said parties and duly considered in the premises, hereby makes and files its findings of fact and conclusions of law:

Findings of fact.

COTTON SHOES.

I.

At all the times hereinafter named the defendant was, and now is, the collector of the port and collection district of San Francisco.

130 II.

At various times between the first day of June, 1886, and the thirty-first day of December, 1866, the several importers named in the complaint imported into the port of San Francisco, from ports in China, ninety-three cases of merchandise, known as Chinese cotton shoes.

II.

These shoes were composed of various materials, to wit, the body thereof of cotton, and the soles thereof of leather and felt, the compound material of chief value in said shoes being cotton.

III.

The actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the country from which they were imported and on which duties were chargeable was the sum of two thousand three hundred & three $\frac{27}{100}$ dollars.

IV.

On the importation of said shoes at the port of San Francisco,
131 the importers made entry thereof at the custom-house as manufactures of cotton not specially enumerated, cotton being the component material of chief value, and requested that the merchandise be delivered to them on payment of duties thereon at the rate of thirty-five per cent ad valorem, said duties at said rate amounting to $8838.$\frac{05}{100}$.

The collector, however, decided that the goods were dutiable under the provisions of law fixing duties on wearing apparel of every description not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, at the rate of forty cents per pound and thirty-five per cent ad valorem, and assessed and exacted from the importers payment of the duties thereon at the sum of three thousand eight hundred and sixty-five $\frac{50}{100}$ dollars, said sum so assessed being $2,936.$\frac{65}{100}$ dollars in excess of the amount chargeable thereon as duties if the same were dutiable as manufactures of cotton.

132 V.

The shoes in question were not composed wholly or in part of hair otherwise than as hereinafter stated. A portion of the sole of the shoes was made of felt, and this felt was made up of coarse animal hair of different kinds and of wood fiber and starch or glue, all of which had been felted, mixed, and pressed into layers, which layers were in turn pressed together until the requisite thickness was reached. In this condition the felt was and is sold to manufacturers of shoes in large sheets.

No part of said shoe contained hair of any kind in the textile fabric, nor were they made up by the tailor, seamstress, or manufacturer of similar character to a tailor or seamstress.

VI.

These shoes have been imported into the United States for more than twenty years. They have always been classified by the Treasury Department as manufactures of cotton not specially enumerated, and
133 were so classified for more than three years after the passage of the act of March 3rd, 1883, under which the collector now classifies them as wearing apparel composed wholly or in part of hair, &c.

VII.

The importers, for the purpose of getting possession of their said merchandise, paid the amount so required by them, but within the time required by law notified the collector of their dissatisfaction with and protest against his decision, and appealed to the Secretary of the Treasury, who affirmed the decision of the collector. The importers thereupon, for value, assigned their claims to the plaintiff, who, within the time required by law, commenced this action for the recovery of the said excess of duties.

SILK SHOES.

I.

At all the times hereinafter named the defendant was and now is collector of the port and collection district of San Francisco.

134 II.

At various times between the first day of June, 1886, and the thirty first day of December, 1886, the several importers named in the complaint imported into the port of San Francisco from ports in China thirty eight cases of merchandise, known generally as Chinese silk shoes.

II.

These shoes were composed of various materials, to wit, the body thereof of silk and the soles thereof of leather and felt, the compound material of chief value in said shoes being silk.

III.

The actual market value or wholesale price of said shoes at the period of exportation to the United States, in the principal markets of the country from which they were imported and on which duties were chargeable, was the sum of one thousand four hundred and fifteen $\frac{09}{100}$ dollars.

IV.

On the importation of said shoes at the port of San Francisco
135 the importers made entry thereof at the custom house as manufactures of silk not specially enumerated, silk being the component material of chief value, and requested that the merchandise be delivered to them on payment of duties thereon at the rate of fifty per cent ad valorem, said duties at said rate amounting to the sum of $8706\frac{70}{100}$ dollars. The collector, however, decided that the goods were dutiable under the provisions of law fixing duties on wearing apparel of every description not specially enumerated or provided for, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, at the rate of forty cents per pound and thirty five per cent ad valorem, and assessed and exacted from the importer's payment of the duties thereon at the sum of one thousand five hundred and ninety-four $\frac{71}{100}$ dollars, said sum so assessed being eight hundred and eighty-eight $\frac{25}{100}$ dollars in
136 excess of the amount chargeable thereon as duties if the same were dutiable as manufactures of silk.

V.

The shoes in question were not composed wholly or in part of hair otherwise than as hereinafter stated. A portion of the sole of the shoes was made of felt, and this felt was made up of coarse animal hair of dif-

ferent kinds and of wood fiber and starch or glue, all of which had been felted, mixed, and pressed into layers, which layers were in turn pressed together until the requisite thickness was reached. In this condition the felt was and is sold to manufacturers of shoes in large sheets.

No part of said shoe contained hair of any kind in the textile fabric, nor were they made up by the tailor, seamstress, or manufacturer of a similar character to a tailor or seamstress.

VI.

These shoes have been imported into the United States for more than twenty years. They have always been classified by the Treasury
137 Department as manufactures of silk not specially enumerated, and were so classified for more than three years after the passage of the act of March 3rd, 1883, under which the collector now classifies them as wearing apparel composed wholly or in part of hair, &c.

VII.

The importers, for the purpose of getting possession of their said merchandise, paid the amount so required by them, but within the time required by law notified the collector of their dissatisfaction with and protest against his decision and appeal to the Secretary of the Treasury, who affirmed the decision of the collector. The importers thereupon, for value, assigned their claims to the plaintiff, who, within the time required by law, commenced this action for the recovery of the said excess of duties.

CONCLUSION OF LAW.

On the foregoing facts the plaintiff is entitled to recover from the defendant the sum of $3,799\frac{56}{100}$ dollars.
138 Let judgment be entered accordingly.

(Signed.) LORENZO SAWYER,
Circuit Judge.

(Endorsed:) Filed February 28th, 1889. L. S. B. Sawyer, Clerk.

139 In the circuit court of the United States, ninth judicial circuit, northern district of California.

R. H. SWAYNE,
vs.
JOHN S. HAGER, COLLECTOR OF CUSTOMS OF THE port and collection district of San Francisco. } No. 5391.

Judgment.

This cause having come on regularly for trial on the 31st day of August, 1888, being a day in the July, 1888, term of said court, before the court sitting without a jury, a trial by jury having been waived by written stipulation of counsel for the respective parties hereto, Milton Andros and Charles Page, esqs., appearing on behalf of the plaintiff, and John T. Carey, esq., United States attorney, appearing on behalf of the defendant,

and the evidence, oral and documentary, on behalf of the respective parties having been introduced and closed, and the cause, after arguments of counsel, having been submitted to the court for consideration and
140 decision, and the court, after due deliberation, having filed its findings in writing, and ordered that judgment be entered herein in accordance therewith; and for costs.

Now, therefore, by virtue of the law, and by reason of the finding aforesaid, it is considered by the court that R. H. Swayne, plaintiff, do have and recover of and from John S. Hager, collector of customs for the port and collection district of San Francisco, the sum of three thousand seven hundred and ninety-nine and 56/100 dollars ($3,799.56), together with his costs in this behalf expended, taxed at $37.55.

Judgment entered February 28th, 1889.

L. S. B. SAWYER, *Clerk.*

I, L. S. B. Sawyer, clerk of the circuit court of the United States of the ninth judicial circuit in and for the northern district of California, do hereby certify the foregoing to be a full, true, and correct copy of an original judgment entered in the therein entitled cause.

141 Attest my hand and the seal of the circuit court of the United States of the ninth judicial circuit in and for the northern district of California, this 28th day of February, 1889.

[SEAL.] L. S. B. SAWYER, *Clerk.*

(Endorsed:) Filed February 28th, 1889. L. S. B. Sawyer, clerk.

142 In the circuit court of the United States, ninth judicial circuit, in and for the northern district of California.

R. H. SWAYNE,
vs.
JOHN S. HAGER, &c. } No. 5391.

Certificate to judgment roll.

I, L. S. B. Sawyer, clerk of the circuit court of the United States, for the ninth judicial circuit, northern district of California, do hereby certify that the foregoing papers hereto annexed constitute the judgment roll in the above-entitled action.

Attest my hand and the seal of said circuit court this 28th day of February, 1889.

[SEAL.] L. S. B. SAWYER,
Clerk.
By F. D. MONCKTON,
Deputy Clerk.

143 (Endorsed:) Judgment roll. Filed February 28th, 1889. L. S. B. Sawyer, clerk. By F. D. Monckton, deputy clerk.

141 *Opinion.*

Swayne v. Hager, collector. Circuit court, N. D. California. February 25, 1889.

Customs duties—Classification—Chinese shoes.

Chinese shoes, consisting of an upper part of cotton or silk and a sole of felt and leather, the felt being made from hair mixed with wool fiber and paper, stiffened with rice starch, are not taxable under the act of 1883, Schedule K, par. 14, imposing 40 cents per pound and 35 per cent ad valorem on clothing, ready-made, and wearing apparel, not enumerated, composed wholly or in part of wool, worsted, alpaca, or other hair, made up by the tailor, seamstress, or manufacturer, but as non-enumerated articles at the highest rates at which their component material of chief value may be chargeable. The cotton shoes, therefore, fall under Schedule 1, par. 7, imposing 35 per cent ad valorem on manufactures of cotton not specially provided for, and the silk ones under the last paragraph of
145 Schedule L, imposing 50 per cent ad valorem on goods not specially enumerated, made of silk, or of which silk is the component material of chief value.

At law. Action by R. H. Swayne against John S. Hager, collector of customs, to recover an excess of duties paid by him.

Milton Andros and Page & Eells, for plaintiff.

J. T. Carey, U. S. atty.

Before Sawyer, circuit judge.

SAWYER, J.: This is an action brought to recover $3,799.50, with interest, for what is claimed to be an excess of duties over the amount required to be paid by law, collected upon various invoices of Chinese shoes imported at the port of San Francisco. The shoe consists of the upper part, made of silk or cotton, which constitutes the most valuable part of the material, and the sole, the upper part of which is composed of layers of felt and the bottom part of leather. The felt is manufactured
146 in this sheets from the hair of various animals, as dogs, cattle, and goats, intermixed with wool fiber and paper. A glue or starch made from rice is added to give greater cohesion. Layers of this article are placed together and the whole pressed into larger sheets, which are then sold to manufacturers for the purpose of making shoes. Several thicknesses of these attached to the silk or cotton uppers, with a leather bottom piece, constitute the sole. The question is, under what provision of the statute should duties on these Chinese shoes be levied and collected? Under then recent instructions from the Treasury Department they were classified and duties thereon collected under the fourteenth paragraph of Schedule K of the act of March 3, 1883 (22 St., 508), which reads as follows:

"Clothing, ready-made, and wearing apparel of every description, not especially enumerated or provided for in this act, and balmoral skirts
147 and skirting and goods of similar description or used for like purposes, composed wholly or in part of wool, worsted, the hair of the

alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, except knit goods, forty cents per pound, and in addition thereto thirty-five per centum ad valorem."

The importer claims that inasmuch as the goods are nonenumerated articles, "manufactured of two or more materials," the duties should have been assessed "at the highest rates at which the component material of chief value may be chargeable," under section 2499 of the Revised Statutes as amended by the act of March 3, 1883 (22 St., 491). The clause of said section under which it is claimed that the goods should be classified read as follows: "And on all (nonenumerated) articles manufactured from two or more materials the duty shall be assessed at the highest rates at which the component material of chief value may be chargeable. If two or more rates of duty should be applicable to any
148 imported article it shall be classified for duty under the highest of such rates: *Provided*, That nonenumerated articles similar in material and quality and texture and the use to which they may be applied to articles on the free list, and in the manufacture of which no dutiable materials are used, shall be free."

Under this statute the importer further claims that the cotton shoes—the cotton being the most valuable part of the material—should be assessed, under paragraph 7 of Schedule I of the act of 1883, as "manufactures of cotton not specially enumerated or provided for." The provision is as follows:

"Cotton cords, braids, gimps, galloons, webbing, goring, suspenders, braces, and all manufactures of cotton not specially enumerated or provided for in this act, and corsets, of whatever material composed, thirty-five per centum ad valorem." (22 St., 506.)

And on the silk shoes, in like manner, duties should be levied under the last paragraph of Schedule L as a none numerated article made
149 of silk or of which silk is the "component material of chief value." The paragraph reads as follows:

All goods, wares, and merchandise, not specially enumerated or provided for in this act, made of silk, or of which silk is the component material of chief value, fifty per cent ad valorem." (22 St., 510.)

After a careful examination of these provisions of the statute, and the rules of construction of revenue laws laid down by the United States Supreme Court in the case cited on behalf of the plaintiff, I am satisfied that the Treasury Department is wrong, and the complainant right in their respective constructions of the statute. I do not think the shoes in questions are "composed wholly or in part of hair," within the meaning of the statute. The component parts of the shoes are cotton, or silk, felt, and leather. These are the parts as used by the manufacturers of shoes. It is true that hair is one of the elements used in the manufacture of felt. But I do not think Congress intended by this classification to include
150 all the ultimate elements that may have entered into an article. Such a classification would be too nice for practicable purposes. I think also the statute refers to textile fabrics. For rules of construction on this point see Elliot v. Swartwort, 10. Pet., 137, 142, 151; Arthur v. Morrison, 96 U. S., 110; Cohn v. Seeberger, 30 Fed. Rep., 425; Greenleaf v. Worthington, 26 Fed. Rep., 303; Riggs v. Frick Taney, 100. So,

also, in my opinion, shoes were not intended to be included in the terms "wearing apparel of every description," in the provision cited from Schedule K. By reading it with the context "wearing apparel * * * made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer," it seems evident that Congress intended other manufacturers of a class similar to a tailor or seamstresss "something ejusdem generis." The principle noscitur a sociis appears to me to be applicable. A shoemaker is not in any respect similar to a tailor or seamstress. In ordinary popular use of language, no one, I presume, would for a moment think that shoes are included in the terms "wearing apparel." See the following
151 decisions supporting and illustrating the construction adopted. Oates v. Bank, 100 U. S., 239, 244; Bend v. Hoyt, 13 Pet., 263, 270–272; Adams v. Bancroft, 3 Sum., 384, 386; Reiche v. Smythe, 13 Wall, 162. Chinese shoes have been imported for more than 20 years, and it is understood that during all the time and for three years after the passage of the act in question they have been classified as manufactures of silk and cotton respectively. A definition adopted and acted upon for a long time should not be regarded as changed by a subsequent act of Congress unless the intention to change is clearly manifest. Reiche v. Smythe, 13 Wall., 162; De Forest v. Lawrence, 13 How., 274. See, also, Edwards v. Darby, 12 Wheat., 210; Hahn v. U. S., 107 U. S., 402, 402; 2 Sup. Ct. Rep., 494; U. S. v. Pugh, 99 U. S., 269; Robertson v. Downing, 127 U. S., 608, 613; 7 Sup. Ct. Rep., 1328, and cases therein cited. I think the classification should be made and duties levied under the several provisions cited as claimed by the importer.

152 Let there be findings and judgment accordingly.

(Endorsed:) Read in open court, February 25, 1889. L. S. B. Sawyer, clerk.

153 *Order allowing appeal.*

At a stated term, to wit, the July term, A. D. 1889, of the circuit court of the United States of America of the ninth judicial circuit, in and for the northern district of California, held at the court room in the city and county of San Francisco on Monday, the 2nd day of September, in the year of our Lord one thousand eight hundred and eighty-nine.

Present: The honorable Lorenzo Sawyer, circuit judge.

R. H. SWAYNE
vs.
JOHN S. HAGER, COLLECTOR, &c. } No. 5391.

On motion of John T. Carey, esq., United States attorney, it is ordered that an appeal from the judgment entered herein to the Supreme Court of the United States be, and the same hereby is, allowed, and that a certified transcript of the record and all proceedings herein be forthwith transmitted to said Supreme Court.

154 In the circuit court of the United States, ninth judicial circuit, in and for the northern district of California.

R. H. SWAYNE, PLAINTIFF,
vs.
JOHN S. HAGER, COLLECTOR, &C., DEFENDANT. } No. 5391.

I, L. S. B. Sawyer, clerk of the circuit court of the United States of the ninth judicial circuit, in and for the northern district of California, do hereby certify that the foregoing one hundred and fifty-three written and printed pages, numbered from 1 to 153, inclusive, are a full, true, and correct copy of the record and of the proceedings in the therein-entitled cause, and that the same together constitute the return to the annexed writ of error.

Witness my hand and seal of said circuit court this 27th day of September, A. D. 1883.

[SEAL.] L. S. B. SAWYER, *Clerk.*

155 UNITED STATES OF AMERICA, ss.

The President of the United States of America, to the judges of the circuit court of the United States for the northern district of California, greeting:

Because in the record and proceedings, and also in the rendition of the judgment of a plea which is in the said circuit court, before you, between John S. Hager, collector of customs for the port and district of San Francisco, plaintiff in error, and R. H. Swayne, defendant in error, a manifest error hath happened, to the great damage of the said plaintiff in error, as by his complaint appears, and it being fit that the error, if any there hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the city of Washington, in the District of Columbia, on the second Monday of October next, in the said Supreme Court, to be there and then held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done thereon to correct that error what of right and according to the law and custom of the United States should be done.

Witness the Hon. Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 5th day of September, in the year of our Lord one thousand eight hundred and eighty-three, and of the Independence of the United States the one hundred and seventh.

[SEAL.] L. S. B. SAWYER,
Clerk U. S. Circuit Court, Northern District of California.

The above writ of error is hereby allowed.

LORENZO SAWYER,
Circuit Judge.

156 The answer of the judges of the circuit court of the United States for the northern district of California.

The record and all proceedings of the plaint whereof mention is within made, with all things touching the same, we certify under the seal of our

said court to the Supreme Court of the United States, within mentioned, at the day and place within contained, in a certain schedule to this writ annexed, as within we are commanded.

By the court:

[SEAL.] L. S. B. SAWYER, *Clerk.*

(Indorsed:) 5291. United States Supreme Court. John S. Hager, collector, pl'ff in error, vs. R. H. Swayne, def't in error. Cit'n writ of error. Filed September 5th, 1889. L. S. B. Sawyer, clerk U. S. circuit court, nor. dist. Cal.

157 UNITED STATES OF AMERICA, ss.

To R. H. Swayne, greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be held at the city of Washington, in the District of Columbia, on the fourteenth day of October, A. D. 1889, pursuant to a writ of error issued by the clerk of the circuit court of the United States for the northern district of California, wherein John S. Hager, collector of customs for the port and district of San Francisco, is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the honorable LORENZO SAWYER, *judge of the circuit court of the United States for the ninth judicial circuit, this 5th day of September, A. D. 1889, and of the Independence of the United States the one hundred and fourteenth.*

LORENZO SAWYER,
Circuit Judge.

158 UNITED STATES MARSHAL'S OFFICE,
NORTHERN DISTRICT OF CALIFORNIA.

I hereby certify that I received the within writ on the 11th day of September, 1889, and personally served the same on the 11th day of September, 1889, by delivering to and leaving with Charles Page, attorney for R. H. Swayne, and defendant named therein, personally, at the city and county of San Francisco, in said district, a copy thereof.

C. C. FRANCE,
U. S. Marshal.
By W. W. BARROWS,
Deputy.

SAN FRANCISCO, September 11, 1889.

(Indorsed:) 5291. In the Supreme Court of the United States. John S. Hager, collector &c., pl'ff in error, vs. R. H. Swayne, def't in error. Cit'n. Citation. Filed September 11th, 1889. L. S. B. Sawyer, clerk U. S. circuit court, nor. dist. Cal.

Endorsement on cover: No. 5291. John S. Hager, collector of customs for the port and district of San Francisco, plaintiff in error, vs. R. H. Swayne. (3843.) U. S. California C. C. U. S. Filed October 4, 1889.

149 U.S. 242

Office Supreme Court U. S.
FILED.
APR 17 1893
JAMES H. McKENNEY,
CLERK.

In the Supreme Court of the United States.

OCTOBER TERM, 1892.

ELIZABETH HAGER, EXECUTRIX of John S. Hager, collector, &c., deceased, plaintiff in error,
vs.
R. H. SWAYNE.
No. 232.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

BRIEF FOR PLAINTIFF IN ERROR.

A. X. PARKER,
Assistant Attorney-General.

A large number of importations made by many different firms and persons are involved, and the plaintiff below claimed to be entitled to recover the aggregate sum in controversy by reason of having become possessed of the several claims by way of purchase and assignment.

The complaint recites the several causes of action at length and is set forth from page 6 to page 106 of the record.

Upon a petition (p. 1) filed October 19, 1887, an order was made on said day transferring said suit to the circuit court of the United States for the northern district of California (pp. 4, 5).

An answer was filed in the suit in said circuit court August 31, 1888 (p. 107).

The sufficiency of the answer to raise the issues on the part of the defense was agreed to by plaintiff's attorneys, and verification by the defendant was waived (p. 109).

A trial by jury was waived by stipulation (p. 109).

The following "stipulation as to findings" was duly made (p. 109).

In the circuit court of the United States, northern district of California.

R. H. SWAYNE, PLAINTIFF,
vs.
JOHN S. HAGER, COLLECTOR, ETC., defendant.

STIPULATION AS TO FINDINGS.

Whereas all of the counts in the complaint in the above-entitled cause are similar in all respects, excepting as to the name of the importer and the

amounts actually charged as well as those claimed to be properly chargeable as duties on the various importations therein set forth, and excepting further, that some of the said importations are of cotton and others of silk shoes, and,

Whereas the findings of the court in said cause may be more conveniently made under two heads—that is to say, "cotton shoes" and "silk shoes"—by grouping the said counts under the said heads and thereby making one finding of fact apply to all,

It is now stipulated and agreed by and between the parties hereto that all the importations of cotton shoes referred to in said several counts may be considered under one head and finding, and all of the said importations of silk shoes may be considered under another head.

PAGE & EELLS,
Attorneys for Plaintiff.
JOHN T. CAREY,
United States Attorney, for defendant.

The findings made by the court in pursuance of the premises, and of said stipulation, appear in the record, pages 110 to 113.

Two principal questions were considered by the court below—one relating to the "cotton shoes" and the other relating to the "silk shoes" imported.

The cotton shoes claimed upon consisted of ninety-three cases. The body of the shoes was composed of cotton, and the soles of leather and felt, the chief value of the shoe being cotton.

A portion of the sole of the shoes was made of felt, which was made of coarse animal hair of different kinds and of wood fiber (the opinion says "wool fiber," fol.

In the Supreme Court of the United States.

OCTOBER TERM, 1892.

ELIZABETH HAGER, EXECUTRIX of John S. Hager, collector, &c., deceased, plaintiff in error, *vs.* R. H. SWAYNE. } No. 232.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

BRIEF FOR PLAINTIFF IN ERROR.

STATEMENT.

The suit out of which this case arises was commenced in the superior court of the city and county of San Francisco, State of California, in October, 1887.

This suit was brought by R. H. Swayne to recover from the defendant, John S. Hager, collector of the port of San Francisco, $3,799.56 alleged to be due on account of illegal duties exacted by the collector on divers importations of cotton shoes and silk shoes, brought into said port in the year 1886 by several importers, from ports in China.

A large number of importations made by many different firms and persons are involved, and the plaintiff below claimed to be entitled to recover the aggregate sum in controversy by reason of having become possessed of the several claims by way of purchase and assignment.

The complaint recites the several causes of action at length and is set forth from page 6 to page 106 of the record.

Upon a petition (p. 1) filed October 19, 1887, an order was made on said day transferring said suit to the circuit court of the United States for the northern district of California (pp. 4, 5).

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In the circuit court of the United States, northern district of California.

R. H. SWAYNE, PLAINTIFF,
vs.
JOHN S. HAGER, COLLECTOR, ETC., defendant.

STIPULATION AS TO FINDINGS.

Whereas all of the counts in the complaint in the above-entitled cause are similar in all respects, excepting as to the name of the importer and the

amounts actually charged as well as those claimed to be properly chargeable as duties on the various importations therein set forth, and excepting further, that some of the said importations are of cotton and others of silk shoes, and,

Whereas the findings of the court in said cause may be more conveniently made under two heads—that is to say, "cotton shoes" and "silk shoes"—by grouping the said counts under the said heads and thereby making one finding of fact apply to all.

It is now stipulated and agreed by and between the parties hereto that all the importations of cotton shoes referred to in said several counts may be considered under one head and finding, and all of the said importations of silk shoes may be considered under another head.

PAGE & ELLS,
Attorneys for Plaintiff.
JOHN T. CAREY,
United States Attorney, for defendant.

The findings made by the court in pursuance of the premises, and of said stipulation, appear in the record, pages 110 to 113.

Two principal questions were considered by the court below—one relating to the "cotton shoes" and the other relating to the "silk shoes" imported.

The cotton shoes claimed upon consisted of ninety-three cases. The body of the shoes was composed of cotton, and the soles of leather and felt, the chief value of the shoe being cotton.

A portion of the sole of the shoes was made of felt, which was made of coarse animal hair of different kinds and of wood fiber (the opinion says "wool fiber," fol.

146), and starch and glue, all of which had been felted, mixed, and pressed into layers, which were pressed together until the requisite thickness was reached.

The felt is sold to manufacturers of shoes in large sheets.

The sixth finding is as follows (p. 111):

VI.

> These shoes have been imported into the United States for more than twenty years. They have always been classified by the Treasury Department as manufactures of cotton not specially enumerated, and were so classified for more than three years after the passage of the act of March, 1883, under which the collector now classifies them as wearing apparel composed wholly or in part of hair, etc.

The two provisions of the tariff act of 1883 (22 Stat. L., 506, 509) involved in the question relating to the cotton shoes are these:

Cotton cords, braids, gimps, galloons, webbing, goring, suspenders, braces, AND ALL MANUFACTURES OF COTTON, NOT SPECIALLY ENUMERATED OR PROVIDED FOR IN THIS ACT, *and corsets, of whatever material composed, thirty-five per centum ad valorem.*

CLOTHING, READY-MADE, AND WEARING APPAREL OF EVERY DESCRIPTION, *not specially enumerated or provided for in this act, and balmoral skirts and skirting, and goods of similar description, or used for like purposes, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, except knit goods,* FORTY CENTS PER POUND, AND IN ADDITION THERETO, THIRTY-FIVE PER CENTUM AD VALOREM.

The silk shoes consisted of thirty-eight cases.

The body of the silk shoes was of silk and the soles of leather and felt, the chief value of the shoes being silk.

The statement made in relation to the felt used in the sole of the cotton shoe is repeated as to the felt used in the silk shoe.

Paragraph VI of the findings as to silk shoes corresponds in effect to finding VI as to the cotton shoes before quoted.

The importers claimed that the silk shoes should be dutied at 50 per centum ad valorem, as manufactures of silk not specially enumerated, silk being the component material of chief value, under the following paragraph (p. 510):

> *All goods, wares, and merchandise, not specially enumerated or provided for in this act, made of silk, or of which silk is the component material of chief value,* 50 *per centum ad valorem.*

While the collector exacted a duty of 40 cents per pound and 35 per cent ad valorem under the paragraph previously quoted.

The court below found in favor of the plaintiff as to both cotton shoes and silk shoes (p. 113), and judgment was entered accordingly (p. 114).

An opinion delivered by the court, Sawyer, J., appears on pages 115 to 117.

TREASURY RULINGS.

The following Treasury decisions appear in relation to Chinese shoes.

By Treasury synopsis No. 7622 (July 8, 1886), the Treasury Department decided that Chinese shoes should be classified under the head of wearing apparel, upon the ground that hair forms a substantial component material of the shoe.

This decision was affirmed, upon an analysis of soles of shoes, by synopsis No. 8334 (July 12, 1887).

By synopsis No. 8455 (September 29, 1887), it is held that—

> In cases where no animal hair can be readily detected in the shoes, the claims of the appellants should be allowed.

Afterwards the following synopsis was promulgated:

(9380.)

Chinese shoes—duty on—Swain vs. *Hagar.*

TREASURY DEPARTMENT, *May* 15, 1889.

SIR: On the 27th of March last you were, under the advice of the United States Attorney-General, instructed by this Department to request the United States attorney at your port to take the necessary steps for appealing the case of R. H. Swain against John S. Hager, collector of customs, in which judgment was recently rendered in the United States circuit court for the northern district of California in favor of the plaintiff, on the ground that the plaintiff was not the importer of the merchandise embraced in the suit on which duties were claimed to have been exacted in excess, he having purchased the claims from the actual importers, and that the plaintiff had no right to recover in such suit, under the provisions of the statute which allows importers only to sue for the recovery of duties claimed to have been erroneously exacted, such recovery being confined to any person "who shall have made payment under protest."

Since then, however, the Department has advised with the United States Attorney-General as to the proper classification of the merchandise embraced in

the said suit, which consisted of Chinese shoes manufactured, some of them of cotton, felt, and leather and others of silk, felt, and leather, the felt in each case being composed in great part of the hair of the goat or other animals, and has reached the conclusion that such Chinese shoes should not be classified under Schedule K, relating to "ready-made clothing and wearing apparel," or manufactures composed in part of hair, etc., on account of the comparatively insignificant value of the hair contained therein, and that they should be classified in accordance with the decision of the court in the said suit, viz: as manufactures of which either silk or cotton may be components of chief value, and duties assessed thereon under Schedules L and I, respectively.

You will apply this decision to any appeals now pending at your port undetermined, where the protests are sufficient for the purpose of reliquidation of the entries.

Upon the reliquidation of such entries you are authorized to take the necessary steps for repayment of the excessive duties, if any, exacted, and you will also apply these views to future importations of such merchandise, Department's ruling of July 8, 1886 (Synopsis 7622), being modified accordingly.

It will be understood, however, that nothing in this communication will be considered as affecting the instructions as to appealing the suit above mentioned to the United States Supreme Court or for allowing reliquidation of any entries where the original importers may have assigned or transferred their claims to third parties.

Respectfully, yours,

GEO. C. TICHENOR,
Assistant Secretary.

COLLECTOR OF CUSTOMS,
San Francisco, Cal.

The court below finds (p. 111, 113), as follows:

VI.

> These shoes have been imported into the United States for more than twenty years. They have always been classified by the Treasury Department as manufactures of cotton not specially enumerated, and were so classified for more than three years after the passage of the act of March 3, 1883, under which the collector now classifies them as wearing apparel composed wholly or in part of hair, etc.

It must, therefore, be admitted that the Treasury Department, although previously ruling otherwise, has since accepted and acted upon the decision of the case at bar, as set forth in the record, and it may be that the court below has closed the door by finding VI.

It is not at all clear, however, that such conclusion is in accordance with the law.

The synopses referred to should be read in connection with two opinions of the Attorney-General appearing, 19th Opins. A. G. 272 and 301, which are, however, not considered conclusive.

Counsel for the Government deems it his duty to place this question, as he finds it, before the court for such disposition as shall be deemed fit.

Counsel begs to add that he would contend—were it clearly permissible to argue this point before the court—

That section 2499 Revised Statutes has no application whatever in this case.

That the decision of the court below is shown by the opinion to have been placed mainly upon section 2499,

and upon the assumption there expressed, that shoes are not wearing apparel.

That the fact that the amount of the hair of animals was quite small in proportion to the whole material of the shoe cuts no figure in the case in the light of the decisions made in *Seeberger* v. *Farwell*, (139 U. S., 608); and *Magone* v. *Luckemeyer*, (*id.* 612).

That shoes are wearing apparel, as held in the recent case of *Arnold* v. *United States*, (147 U. S., 494).

And that the conclusion reached by the Treasury Department is not controlling, as it was not authorized by but was contrary to law. (See *United States* v. *Graham*, 110 U. S., 221, and cases there cited.)

SECOND.

The suit is brought by an assignee of the divers and sundry claims sued upon, and none of the merchandise affected was imported by him and none of the duties alleged to have been excessive were exacted from or paid by him. No protest in writing was made by him and he took no appeal to the Secretary of the Treasury.

Paragraph 7 of each of the counts of the complaint is as follows:

> That since the last-mentioned date the said Kwong Mee Lung & Co. (p. 36) [or other importer, naming him] for a valuable consideration has sold, assigned, and transferred to this plaintiff their said claim against said defendant for said sum of ——— dollars.

And findings of fact VII, of the respective sets of findings (pp. 111, 113), show that the assignment occurred

after the decision of the Secretary of the Treasury and before the time for the bringing of a suit for exaction of an excess of duties had expired.

And said pleadings and findings show that the assignment and transfer was a voluntary assignment upon purchase and sale.

ASSIGNMENT OF ERRORS.

(1) The court erred in directing judgment in favor of the plaintiff below.

(2) The court erred in holding and deciding that the cotton shoes involved in the suit were dutiable at the rate of 35 per cent ad valorem; and also erred in deciding that the same were not subject to a duty of 40 cents per pound and, in addition thereto, 35 per cent ad valorem.

(3) The court erred in holding and deciding that the silk shoes involved in the suit were dutiable at the rate of 50 per cent ad valorem, and also erred in deciding that the same were not subject to a duty of 40 cents per pound, and in addition thereto 35 per centum ad valorem.

(4) The court below also erred in assuming or entertaining jurisdiction of the suit now brought up by writ of error, because it appears from the complaint filed therein that such suit was brought by a person other than the importer of the merchandise which was the subject of the exaction complained of.

(5) The plaintiff in error presents as ground of error in this case, that the purchaser and voluntary assignee of a claim for excessive duties alleged to have been paid to the Government or to its collector by an importer of for-

eign merchandise, is not authorized by law to bring or maintain a suit against the United States for such alleged excess.

(6) The court below erred in rendering judgment in favor of the plaintiff in said suit because it appeared from and by the complaint filed that the suit was brought by a purchaser of the claim involved and was not brought by any person, firm, or company that imported any of the shoes in question.

(7) The court below erred in rendering judgment for $3,799.56 or any portion thereof, in plaintiff's favor, after having by findings numbered VII (in each of the respective sets of "findings of fact" (pp. 111 and 113) found that the importers "for value assigned their claims to plaintiff, who * * * commenced this action for the recovery of the said excess of duties."

POINTS.

I.

AS THE PLAINTIFF BELOW WAS A VOLUNTARY ASSIGNEE THE CIRCUIT COURT NEVER TOOK JURISDICTION.

It appears in relation to every cause of action set forth in the complaint, by the second clause of paragraph V of each count of the complaint, that the duties were paid by the importer for the purpose of obtaining delivery of the goods to the importer.

The admitted and alleged theory of the plaintiff below is that the importer paid the duty, made the protest, received the merchandise, and appealed to the Secretary,

and that plaintiff Swayne became connected with the matter after the importer received the merchandise from the collector, by purchasing the naked, severed claim, and not otherwise.

The question presented is, whether a speculator may, under the policy of the law and under the statutes, purchase and bunch divers and sundry bare and unrelated claims against the Government and may bring suit upon the series after all of the goods concerned have been removed by the importer, and can maintain such a suit and recover upon this aggregation of severed claims; or whether the courts are incompetent to take jurisdiction of, or to hear, or to render judgment in such a case.

It is too firmly established to justify argument or citation that a suit to recover back an excess of duties paid by an importer can only be brought by the consent of the United States.

The consent of the Government to be sued in specified cases must rest upon an enactment of Congress.

The rule is that the individual, firm, or corporation can not initiate or maintain such a suit.

The exception, created by statute, allowing suit in specified cases, must be limited in the nature of things to the authority specified in and affirmatively granted by the statute.

Section 2931, Revised Statutes, makes the decision of the collector conclusive as to the rate and amount of the duties, unless the "owner, importer, consignee, or agent" of the merchandise shall protest and shall appeal to the Secretary of the Treasury. And the decision of the Sec-

retary is made conclusive unless suit shall be brought within ninety days after the decision of the Secretary, provision being made for delays of more than ninety days in the making of the decision.

It seems to be the intent of this section that the suit shall be brought by the "owner, importer, consignee, or agent" specified.

The suit now brought before this court by writ of error was sought to be planted and is sought to be maintained under the authority of section 3011, Revised Statutes, which is as follows:

> SEC. 3011. Any person who shall have made payment under protest and in order to obtain possession of merchandise imported for him, to any collector or person acting as collector, of any money as duties, when such amount of duties was not or was not wholly authorized by law, may maintain an action in the nature of an action at law, which shall be triable by jury, to ascertain the validity of such demand and payment of duties and to recover back any excess so paid. But no recovery shall be allowed in such action unless a protest (in writing and signed by the claimant or his agent) was made and delivered at or before the payments, setting forth distinctly and specifically the grounds of objection to the amount claimed and appeal shall have been taken as prescribed in section twenty-nine hundred and thirty-one.

As no one is authorized to bring suit for excessive duties except under this statute, it follows that no one can initiate or maintain such a suit except the "person who shall have made payment under protest," and so forth.

It may be that a purchaser of goods in bond, and in good faith, receiving the claim against the collector as an incident, and because it is attached to and follows the merchandise, is constructively the importer as meant by this statute.

It is possible also that devisees, representatives of the estates of deceased persons, and assignees in bankruptcy, and such as are made assignees by force of law, may not be within the reason of the exclusion implied by the statute.

But the case of the defendant in error is one that challenges and requires a strict construction against him. He came into court as the purchaser of aggregated claims; each one severed from all connection with the property and transactions out of which it arose; all obtained, apparently, for purposes of speculation, and, as the number and peculiar character of the claims indicate, with the purpose of enforcement against the Government by suit.

The seventh subdivision of the respective counts of his pleading, and Finding VII of the findings of fact of the court below, show him to be a mere voluntary assignee.

The inference is irresistible that the purchaser of these numerous claims from the large number of Chinese importers named was a scheme of Swayne's to acquire gain by buying doubtful claims from those who did not see fit to prosecute them themselves, with the intent to take the chance of enforcing them himself in the courts. He is very far from being within the rules that may apply to an involuntary assignee.

In *Cheatham* v. *United States* (92 U. S., 85) it is held that the Government has the right to prescribe the conditions on which it will subject itself to the judgment of the courts in the collection of its revenues. (89.)

Arnson v. *Murphy* (109 U. S., 238) involved a construction of section 3011, and this court there refers to the common-law right to recover money illegally exacted by a collector, and says (243) that the common-law action has been converted into an action based upon the principle of statutory liability, "which, if not originated by the act of Congress, yet is regulated as to all its incidents by express statutory provisions."

The same case upon the second hearing (115 U. S., 579) affirms the doctrine.

It is said (p. 584):

> We are of opinion that it is incumbent upon the importer to show, in order to recover, that he has fully complied with the statutory conditions which attach to the statutory action provided for.

And the view is approved (p. 585, foot):

> That the Government had, by statute, as to both customs and internal revenue departments, prescribed the conditions on which it would subject itself to the judgment of the courts in the collection of its revenues.

It necessarily follows that a person not authorized by statute to sue, to wit, an assignee of the naked claim, is without authorization or permission to bring or maintain the suit at bar.

II.

THE ASSIGNMENTS OF THE SEVERAL CLAIMS ARE VOID UNDER THE REVISED STATUTES.

The first clause of section 3477, Revised Statutes, is as follows:

> SEC. 3477. All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or of any part or share thereof, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof.

The second clause of said section provides as to the recitals, acknowledgment, certification, and explanation to the assignor required in assigning such claims.

It is respectfully submitted that the claims set forth in the complaint in this action are covered by this section.

If, however, it shall be held that claims for the recovery of excessive customs duties paid are not within the intent of this section, it is still urged that this legislation shows that the intent of Congress is clearly shown not to authorize or countenance the assignment of bare claims against the Government for the purposes of suit or in view of litigation, or otherwise.

It is submitted that this statute rests upon prudential grounds of public policy, and that, therefore, while repre-

es of deceased persons, assignees in bankruptcy, h as take the right of another by an assignment in y not be within the rule, a voluntary assignee of a l claim which, if paid, is to be paid out of the y of the United States, is within the spirit and if hin the direct intent of the statute.

III.

SIGNMENT OF CLAIMS LIKE THOSE HERE IN-OLVED IS CONTRARY TO PUBLIC POLICY.

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An assignment of a chose in action will not be ctioned either in a court of law or equity when it pposed to any rule of law, sound morals, or public icy.

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1040. *g*. So an assignment of a bare right to file ill in equity for a fraud committed upon the as-nor will be held void, as contrary to public policy, l as savoring of the character of maintenance, of ich we shall presently speak. So a mere right of ion for a tort is not, for the like reason, assignable. leed, it has been laid down as a general rule that ere an equitable interest is assigned in order to e the assignee a *locus standi in judicio* in a court equity, the party assigning such right must have ne substantial possession and some capability of sonal enjoyment, and not a mere naked right to rset a legal instrument or to maintain a suit.

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The second clause of said section provides as to the recitals, acknowledgment, certification, and explanation to the assignor required in assigning such claims.

It is respectfully submitted that the claims set forth in the complaint in this action are covered by this section.

If, however, it shall be held that claims for the recovery of excessive customs duties paid are not within the intent of this section, it is still urged that this legislation shows that the intent of Congress is clearly shown not to authorize or countenance the assignment of bare claims against the Government for the purposes of suit or in view of litigation, or otherwise.

It is submitted that this statute rests upon prudential grounds of public policy, and that, therefore, while repre-

sentatives of deceased persons, assignees in bankruptcy, and such as take the right of another by an assignment in law may not be within the rule, a voluntary assignee of a disputed claim which, if paid, is to be paid out of the Treasury of the United States, is within the spirit and if not within the direct intent of the statute.

III.

THE ASSIGNMENT OF CLAIMS LIKE THOSE HERE INVOLVED IS CONTRARY TO PUBLIC POLICY.

The principle is stated (3 Am. & E. Encya., 237) that:

> An assignment of a chose in action will not be sanctioned either in a court of law or equity when it is opposed to any rule of law, sound morals, or public policy.

The rule is stated in *Story's Eq. Juris*, as follows:

> 1040. *g*. So an assignment of a bare right to file a bill in equity for a fraud committed upon the assignor will be held void, as contrary to public policy, and as savoring of the character of maintenance, of which we shall presently speak. So a mere right of action for a tort is not, for the like reason, assignable. Indeed, it has been laid down as a general rule that where an equitable interest is assigned in order to give the assignee a *locus standi in judicio* in a court of equity, the party assigning such right must have some substantial possession and some capability of personal enjoyment, and not a mere naked right to overset a legal instrument or to maintain a suit.

It is set forth in *Prosser* v. *Edmonds* (Younge & Coll., 496–7) as follows:

> The remaining cause of demurrer, namely, that the plaintiffs have no right to equitable relief, raises an important and curious question, which is this: Whether for not parties who either become purchasers for a valuable consideration, or who take an assignment in trust of a mere naked right to file a bill in equity, shall be entitled to become plaintiffs in equity in respect of the title so acquired?
>
> * * * * *
>
> In the present case, it is impossible that the assignee can obtain any benefit from his security except through the medium of the court. He purchases nothing but a hostile right to bring parties into a court of equity, as defendants to a bill filed for the purpose of obtaining the fruits of his purchase.
>
> * * * * *
>
> All our cases of maintenance and champerty are founded on the principle that no encouragement should be given to litigation by the introduction of parties to enforce those rights which others are not disposed to enforce. There are many cases where the acts charged may not amount precisely to maintenance or champerty, yet of which upon general principles, and by analogy to such acts, a court of equity will discourage the practice.

See also *Marshall* v. *Means* (12 Geo., 67); the *M. & M. R. R. Co.* v. *M. & W. R. R. Co.* (20 Wis., 183); *Dayton* v. *Fargo* (45 Mich., 154), and *Gardner* v. *Adams* (12 Wend., 299).

If it shall be held, as counsel recognizes that it possibly may be, that a suit for the recovery of duties exacted is not

precisely within the foregoing rules or those laid down in *Traer* v. *Clews* (115 U. S., 528), or the cases there cited (540), it is certainly covered by the observation of this court as expressed by Mr. Justice Nelson in *Propeller Mohawk* (8 Wall., 162), viz:

> The suit in the present case has been instituted by a volunteer, on a speculation; and we are not sorry that, upon the application of the principles of law governing it, the experiment must fail.

IV.

THIS CASE IS WITHOUT PRECEDENT.

This case challenges the rule sometimes applied in law, that that which never has been done ought not to be done.

It is apparent that counsel for defendant in error fails to discover in the books any precedent for the suit here presented.

Counsel for plaintiff in error is unable to find any case in which a voluntary assignee of a customs claim for alleged excess of duties paid has ever brought a suit in our courts to enforce the collection of his claim.

It is respectfully submitted that the argument which naturally and necessarily follows is of great weight.

LASTLY.

It is respectfully submitted that the judgment rendered by the court below should be reversed.

A. X. PARKER,
Assistant Attorney-General.

149 U.S. 242

Office Supreme Court U. S.
FILED.
MAR 29 1893
JAMES H. McKENNEY,
CLERK.

BRIEF FOR DEFENDANT IN ERROR.

Case No. 13842.

Supreme Court of the United States,

OCTOBER TERM, 1892.

TERM No. 232.

ELIZABETH HAGER, EXECUTRIX OF JOHN S. HAGER, DECEASED, PLAINTIFF IN ERROR,

vs.

R. H. SWAYNE, DEFENDANT IN ERROR.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

Filed , *1893.*

IN THE

SUPREME COURT

OF THE

UNITED STATES.

ELIZABETH HAGER, EXECUTRIX
OF JOHN S. HAGER, Deceased,
Plaintiff in Error,

v.

R. H. SWAYNE,
Defendant in Error.

Brief for Defendant in Error.

The record in this case shows that the action was brought in the lower Court by the defendant in error against the Collector of the port of San Francisco, to recover an excess of duties exacted by the Collector from his assignors on several importations of merchandise. The merchandise consisted of Chinese shoes, generally designated as "cotton shoes" and "silk shoes," according to the material of which the upper part of the shoe is made. The importer entered them respectively as "manufactures of cotton, not specially enumerated or provided for" (Par. 7, Sched. I, Act of 1883, 22 Stat. 506), and as non-enumerated ar-"ticles made of silk, or of which silk is the component material of chief "value" under the last paragrah of Schedule L, of the same act (id. p 510).

The Collector assessed duties thereon under Paragraph 14, Sched. K (id. 508), as "clothing ready made, and wearing apparel of every "description, not specially enumerated * * * composed wholly or "in part of wool, worsted, the hair of the alpaca, goat or other animals, "made up or manufactured wholly or in part by the tailor, seamstress "or manufacturer * * *"

The importers duly protested against the decision of the Collector and the exaction of duties thereunder, and thereafter, within the time prescribed by law, appealed to the Secretary of the Treasury, who affirmed the decision of the Collector.

The right of the importers to a return of the excess of duties paid, if such excess there was, passed to the plaintiff, as their assignee, who thereafter, within the ninety days prescribed by law, brought his suit in the State Court, whence it was by proper proceedings removed into the Circuit Court.

On the trial in the latter Court, the contention of the plaintiff that the assessment and collection of the duties sued for had been unlawfully made, was sustained by the Court on the various grounds stated in the opinion. The Treasury Department, under the advice of the Attorney General (S. 9380, May 15, 1889), accepted the decision of the Circuit Court on the legality of the action on the part of the Collector as correct, and directed him to reliquidate all entries on which protests had been made, but not determined, and thereafter to classify all similar importations in accordance with said decision, but it, at the same time, directed that an appeal should be taken from the judgment in the cause, on the ground that it appeared from the record that the plaintiff was not the person who had paid the duties under protest, and that for this reason he was not entitled to sue for their recovery.

We assume therefore that this is the only ground on which the reversal of the judgment of the Circuit Court is sought.

The defendant in error respectfully submits that the judgment of lower Court should be affirmed.

At the time of presenting this argument on behalf of the defendant in error, we are not in possession of the views of the Counsel for the government and, as no bill of exceptions was taken, we can do no more than assume that he will take the position indicated by the action of the Treasury Department when the appeal was ordered.

The point presented by the letter of the Treasury Department is that Section 3011, Revised Statutes, as amended by the Act of February 27, 1877 (19 Stat. 2, 47) gives the right of action against the Collector to the "person who shall have made payment under protest." It may, also be argued that a claim against the Collector is a claim against the United States, and that an assignment of such claim is, under Section 3477, Revised Statutes, void. These contentions may be considered together.

The record presents to the Court for review no question other than the sufficiency of the special finding to sustain the judgment entered on it. It is contended by the Treasury Deparment that, because it appears that the plaintiff below was an assignee of the importers' rights against the Collector, therefore this Court will reverse the judgment, if it shall hold that the law limits the right of action to him who shall have made payment under protest, or if it shall decide that a claim against a Collector is a claim against the United States.

If no assignee could maintain the action, the argument would be strong because it undoubtedly appears that the plaintiff became

assignee of the importer's rights and that he did not himself make the payment under protest.

If, however, such suit be maintainable in any case by an assignee, it seems clear, that, in the absence of a bill of exceptions showing that the plaintiff comes within the prohibited class, the Court is bound to assume that the judgment of the lower Court was based on sufficient proof that the assignee in that case came within the class of assignees to whom the law allows the right to maintain the action.

The rule is universal that every presumption will be indulged in favor of the judgment. It is sometimes expressed in another form, that every presumption is against error having been committed, and where inferences may be drawn from the finding, they will be indulged in to support, but not to overthrow the judgment. The reason is that error must be made to appear affirmatively.

The principle was clearly recognized in *Larkin* v. *Upton*, 144 U. S. 19, where this Court held it "true that if the findings are fairly sus-"ceptible of two constructions, one upholding and the other overthrow-"ing the general verdict, the former will be accepted as the true con-"struction, because it will not be presumed that the jury had different "intentions in the findings and the verdict."

In the case referred to, "the jury returned a general verdict for the "plaintiffs, and, also, made certain findings of fact at the instance of "the respective parties." *A fortiori* will this rule apply to the Court's judgment on a special finding which declares that the plaintiff's right of action is based on an assignment. If such assignment might be inferred to be the sale of the right of action on the one hand, or on the other hand, its acquisition by operation of law, as in the case of an assignment in insolvency, or one voluntarily made for the benefit of creditors, then the presumption of law in support of the judgment, if it may so be supported, is that the assignment was one that the law permits of.

The first inquiry, therefore, must be, whether the statutes, which, in Section 3011, give the person who shall have made payment under protest the right of action, and in Section 3477 forbid the assignment of claims against the United States, are applicable to all persons who shall hold the claim by virtue of an assignment, whatever the nature of the assignment may be.

This Court in construing Section 3477, has distinctly held that the language of the act of Congress cannot be so interpreted.

That section forbids and declares void "all transfers and assign-"ments made of any claim upon the United States, or any part or "share thereof, or interest therein, whether absolute or conditional "* * * *unless they are freely made and executed* in the presence of "at least two attesting witnesses *after the allowance of such a claim, "the ascertainment of the amount due and the issuing of a warrant "for the payment thereof.*"

In *Erwin* v. *United States*, 392, 397, the Court held that "the pas-"sing of claims to heirs, devisees or assignees in bankruptcy is not "within the evil at which the statute aimed."

The claim there considered was a contingent claim upon the government, which, consequently, could not have been ascertained and allowed, and the assignment could hardly be said to have been freely and voluntarily made.

Again in *Goodman* v. *Niblack*, 102 U. S. 560, the Court went still further, and declared that a voluntary assignment for the benefit of creditors of all his effects made by an insolvent debtor was not within the prohibition of the statute.

We do not think that the Court would be justified in holding that a claim against a Collector is a claim against the United States within the meaning of Section 3477, which clearly defines the character of the claims intended in a way that excludes claims for duties. The law refers to the allowance and ascertainment of claims and the drawing of warrants for their payment. Warrants are not drawn for excess of duties collected. In *Hobbs* v. *McLean*, 117 U. S. 575, the Court said, "Section 3477, it is clear, only refers to claims against the "United States, which can be presented by the claimant to some de-"partment or office of the United States for payment, or may be pro-"secuted in the Court of Claims."

A claim for excess of duties under the Revised Statutes was never presented to departments or offices. The importer gave notice of dissatisfaction with the Collector's liquidation of duties and appealed from his action to the Secretary, and if the latter failed to relieve from the wrong, if any existed, the importer brought his action in the Courts. These acts are entirely different from those described in the case last cited.

The principles upon which this Court excluded from the prohibition of Section 3477 assignments in bankruptcy and insolvency, and voluntary assignments for the benefit of creditors would apply with equal force to Section 3011, were its provisions as stringent as those of Section 3477. They, however are far from expressing prohibition, or the avoidance of the claim of the assignee. They simply authorize the bringing of a suit, not necessarily and exclusively as we contend, by the "person who shall have made payment under protest," but by such person. They do not say no one else shall bring the suit, nor do they annul and make void the assignment which is made the basis of another's suit for the excess of duties. As we contend, the use of the words of the section is made in the natural and orderly way in which the laws generally confer rights. It is not the habit of the legislature to cover by its words all possible persons who may avail themselves of its benefit. That is left to the general principles governing the transfer or descent of rights from one to another. On the other hand it is universal that if a limitation of a right is intended, such limitation is is made clearly to appear.

The "person who shall have made payment under protest," and who is entitled to sue under Section 3011 is the person, whoever he may be, who by Section 2931, referred to in 3011, may be entitled to sue. By the latter Section, the "importer, owner, consignee or agent" may protest and appeal against exaction of unlawful duties. But the Section does

not say that they *alone* may sue. It provides only a limitation of time within which *suit* must be brought, that is, a suit by any person who may lawfully bring suit.

In *Castro* v. *Seeberger*, 40 Fed. R., 531, the Circuit Court for the Northern District of Illinois held that the purchaser of merchandise in bond, who was not the person who had protested or appealed under Section 2931, and who was not the person who had made payment *under protest* might maintain a suit against the Collector. "It seems to me" said Judge Blodgett, "that a liberal interpretation of this "provision of a statute authorizing a suit to test the Collector's action "in the matter of the assessment of duties should be given, so as if pos-"sible, to bring all cases which may occur in the course of business "before the proper tribunal for adjudication. * * The purchase by "him virtually places him in the shoes of the importer. He takes the "goods with the contest upon them, and it seems to me, he has the "election to continue the contest which the importer has commenced by "the protest and appeal, by asking the judgment of the Court in regard "to the validity of the classification and assesment for duty made by "the Collector. I cannot see how any harm can come to the govern-"ment or to the Collector from this construction of the law."

We are aware that this Court has declared it to be the law that the liability of the Collector for duties unlawfully exacted is now entirely statutory, and that it is regulated as to all its incidents by express statutory provisions.

> Arnson v. Murphy, 109 U. S., 238.
> *Id.*, 115 U. S., 579.

We are not seeking, however, to escape any limitation prescribed by the statute. We contend, merely, that the true construction of the law does not limit the right of action to him who shall have made payment under protest, and that there is no law forbidding the plaintiff in the Court below from maintaining his suit.

It has ever been the law that revenue statutes shall be so constructed that no burthen of doubtful legality shall be laid on the citizen.

> Adams v. Bancroft, 3 Sumn., 387.

"Revenue statutes are not to be regarded as penal and therefore, to "be construed strictly. They are remedied in their character and to be "construed liberally, to carry out the purposes of their enactment."

> U. S. v. Hodson, 10 Wall., 406.

"The words of the statute are to be taken in the sense in which "they will be understood by that public in which they are to take "effect."

> United States v. Isham, 17 Wall., 504.